

**Legislation Pertaining to Women
and Children in Iowa**

Frank C. Deust

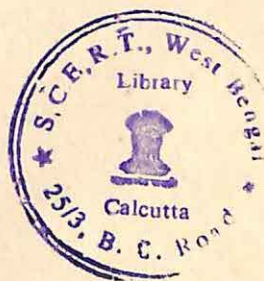
LEGISLATION PERTAINING TO WOMEN AND CHILDREN IN IOWA

FRANK E. HORACK, Ph.D.

GEORGE D. STODDARD, Ph.D., Editor

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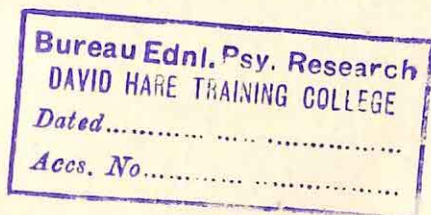
FOREWORD

Professor Frank E. Horack in this second account of Iowa legislation not only extends its scope but traces the underlying principles which have become more clearly recognized during the last decade. Now, for the first time in Iowa, legal woman is truly equal to legal man.

In presenting this material in a form at once authoritative and readable, Professor Horack renders a valuable service to every law-maker and public worker.

GEORGE D. STODDARD

Office of the Director
Iowa Child Welfare Research Station
University of Iowa
November 20, 1933



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INTRODUCTION

In 1920, at the suggestion of the late Dr. Bird T. Baldwin, then Director of the Iowa Child Welfare Research Station, the writer prepared a monograph on *Child Legislation in Iowa*, which was published in the *Studies in Child Welfare*, Vol. 1, No. 6. This bulletin has long been out of print and much of its contents out of date, as much new legislation has been enacted since 1920.

The present monograph was written at the request of Dr. George D. Stoddard, Director of the Iowa Child Welfare Research Station, and at his suggestion its scope was extended to include legislation especially applicable to women.

Women and children have become the favored subjects of legislation in the modern state (1) because of the important part played by women in the rearing and care of the young, and (2) because of the belief that by protecting or augmenting the status of childhood a better citizenship is insured.

Legislation relating to women has chiefly been (1) to promote their legal and political status and (2) to protect them in industry. The adoption of the Nineteenth Amendment to the Federal constitution was influential in promoting legislation designed to remove all political and legal disabilities. In many cases, however, legislation aimed to promote the equality of the sexes deprived women of a favored position previously held.

Marriage and family relations are among the oldest subjects of legislation by the state, and the constant tendency is to safeguard further women in entering into or dissolving these important relationships.

Age limitations and parental consent for minors to marry are common to all states, and in addition some require proof that the contracting parties are free from venereal infection. In other states only the man is required to show freedom from venereal disease.

At common law a married woman was almost entirely dependent upon her husband for protection. A husband was his wife's interlocutor in commercial, political, and legal matters. She had few legal privileges of her own. With the increased demand for popu-

lar control and with the development of statutory law, the interests of the married woman became a matter for protection by legislation.

Today a woman after marriage may, in most states, retain possession of property which she owned before marriage, and in most business relationships she stands on a basis of equality with her husband.

It is in the field of industry that modern legislation has especially favored women workers.

Oregon, Kansas, and New York may be classed as leading states in sponsoring legislation for the protection of women in industry. Indeed, Kansas and Oregon are pioneers in the field of industrial legislation. Industrial legislation can be divided into at least four categories, i.e., hours of employment, minimum wage, prohibited employment, and facilities for rest.

Many states limit the hours of employment that women may engage in. In New York the standard day for adults of all classes is eight hours. The eight hour limitation applies to all trades and businesses except farming and domestic service. Some states do not specify the number of hours per day or week by means of legislation. In Kansas the law simply states that it is unlawful to employ women or minors in any industry or trade under conditions that are detrimental to health. The details for the administration of this law are supplied by a court of industrial relations, which has authority to specify the hours that one may work in the various types of employment.

Frequently legislation pertaining to women in industry includes children as well. In fact it is common for both to be included in a single statute with provision for an administrative agency to look after the interests of both women and children.

Legislation relative to children, however, includes a variety of subjects besides industry. The most important of these are the laws for the protection of the morals, health, and safety of children and the laws relating to the care of neglected, dependent, and delinquent children.

The revision of the Code of Iowa in 1924 seems to have been the occasion for the revision of legislation relating to children particularly in the fields just mentioned above. Several important pieces of legislation have also been enacted since 1924.

The granting of free medical treatment to indigent children is an evidence of state philanthropy without parallel in history. The

education of the deaf and the blind is also commonly undertaken at state expense.

If it is true that it costs more to send a man to the penitentiary than to send a boy to college, the state is justified on economic grounds alone in the legislation enacted and the expenditures incurred in behalf of child welfare. If the tree is inclined as the twig is bent, the establishment of the numerous institutions at the expense of the state for care, education, and well-being of the neglected, dependent, and delinquent child is only a matter of self-protection. Good citizenship is not acquired by waving the American flag.

The success of state institutions for the care of unfortunate children will be in direct ratio to the capacity, training, and sympathy of those immediately in charge. Political appointees seldom have the necessary qualifications for expert administration.

It is not the purpose of this monograph to present a code of woman and child legislation but rather to give a narrative account of such legislation in as convenient and readable form as possible. Footnote references are generously included in order that the reader may verify these references for himself or find additional provisions and details not included herein. The provisions cited are scattered throughout the entire code. It is the hope of the writer that the material here collected may be useful to those seeking information on the legislative policy of the state with reference to women and children.

Chapter I

LEGISLATION PERTAINING TO WOMEN IN IOWA

INTRODUCTION

Men, women, and children constitute the citizenship of the state, yet until very recent times all of the legislation relating to women and children was the product of legislative bodies composed exclusively of men.

Children (i.e., legal minors) have always been and still are considered as a dependent class, while it is only recently that women have acquired a status of legal and political equality.

The legal rights of women in America were originally founded on the common law of England and only as the common law has been superseded by statute has the present position of women in the state been established. The rules of the common law relating to women, which modern feminists in both England and America have struggled to overthrow, gave them a status of dependency upon father, brother, or husband, yet these provisions were looked upon by Blackstone as designed for their special welfare and protection.

Space does not permit of an extended discussion of the rights and disabilities of women under the common law, but such material may be found in Gallaher's *Political and Legal Status of Women in Iowa*.¹

It is not the purpose of the writer to write a treatise on domestic relations nor to portray men and women as hostile classes, but only to point out wherein the laws of Iowa have special application to women.

Women as citizens are subject to the same laws as men in most of the legislation of the state, and it is only where the law has special application to women that the same will be considered here.

¹ Gallaher, Ruth A.: *Legal and Political Status of Women in Iowa: An Historical Account of the Rights of Women in Iowa from 1838 to 1918*. Iowa City, Iowa: State Historical Society of Iowa, 1918. Pp. xii, 300.

CITIZENSHIP

According to a rule of law almost universally recognized, the citizenship of a wife followed that of her husband. Until only a little over a decade ago when an alien woman married an American citizen she immediately acquired full citizenship rights without any other formal ceremony and without taking an oath of allegiance. Marriage made her an American citizen whether she wished it or not.

In 1922, Congress recognized the claim of women to their own individuality by providing that an alien woman marrying an American citizen did not henceforth automatically gain American citizenship. The alien wives of American citizens must now be naturalized in order to become citizens of the United States. No declaration of intention, however, is required and the period of residence was reduced from five years to one year.

An alien woman married to an alien husband eligible to naturalization and resident in the United States can be naturalized independently of her husband. In such a case, being a married woman would not shorten the period of residence for naturalization. She would have to go through the same naturalization procedure that an alien man or unmarried alien woman would.

The law of Congress of 1922 provided that any American woman who married an alien not eligible to citizenship in the United States, such as Chinese, Japanese, and Hindu, lost her American citizenship as a result of her marriage. In 1931 this disability was withdrawn. Today the citizenship of an American woman is in no way affected by her marriage, and unless she voluntarily gives up her citizenship she is entitled to retain it.

The wedding ring may have lost none of its romantic implications, but it is no longer a short cut method of gaining American citizenship for alien women.

Inasmuch as the Federal government determines all matters of citizenship and naturalization, the states can neither give nor withhold citizenship rights. Citizenship, however, does not necessarily confer political rights such as voting and holding office. In these respects the states have been able to set up their own qualifications.

The Nineteenth Amendment to the Federal constitution, however, denies any state the right to make sex a qualification for voting. Having a right to vote does not necessarily give one a right to hold public office or sit on a jury. In states where any qualified voter

was eligible to public office at the time of the adoption of the Nineteenth Amendment, women, no doubt, became so qualified without further legislation. The Iowa constitution, however, provided that only male citizens could be members of the House of Representatives. This disability was removed by an amendment to the state constitution adopted in 1926.

The women of Iowa may now vote at all elections, hold any public office, and sit on juries, but they have not as yet been required to pay a poll tax as men do.

MARRIAGE

Under the old common law, women were as much a dependent class as minors. A woman was always dependent upon her father, brother, or husband for protection. It was a long step indeed in the progress of women's rights when a woman could enter into a marriage contract without the consent of some of her male relatives. The freedom of women in the matter of marriage today needs little comment.

The Code of Iowa declares that marriage is a civil contract requiring the consent of the parties thereto who must be capable of entering into other contracts, unless otherwise excepted.² This means that the parties to a marriage contract must be of lawful age and sound mind, unless otherwise provided for by law. Marriage is, however, more than a civil contract; it is a status as well, in the maintenance of which the state is an interested party.

The law has always recognized the earlier maturity of girls by placing the age at which they may legally marry, both with and without parental consent, at a lower figure than for boys.

The Iowa Code declares that a marriage between a male of sixteen and a female of fourteen is valid, but if either party has not attained the age thus fixed, the marriage will be a nullity or not at the option of such party any time before he or she is six months older than the age fixed by the law.³ Such youthful marriages, however, cannot be freely entered into without parental consent.

The officer charged with the duty of issuing marriage licenses must be satisfied that the age qualifications have been met before granting a license. If either applicant for a license is a minor but still within the age recognized to constitute a valid marriage, the

² Code of Iowa, 1931, sec. 10427.

³ Code of Iowa, 1931, sec. 10428.

consent of the parent or guardian of the minor must be filed in the office of the clerk. Consent of parent or guardian, however, is not required where the girl is over eighteen years of age. Other reasons for not granting a license apply to both sexes and will not be considered here.

In 1931 the legislature of Iowa passed an act which required that an application in writing must be presented to the clerk of the district court five days before the license could be issued. This act was sponsored by women's organizations to prevent hasty marriages as the result of which the woman usually pays the greater penalty. The act was repealed in 1933, in spite of the protests of those who had sponsored the act, chiefly because couples in counties near the state borders showed a tendency to get married outside of the state rather than give the five day notice. The result was a loss of revenue from marriages and marriage licenses.

Prohibited Marriages

The common law created a long list of prohibited marriages based upon relationships both of consanguinity and affinity, the most noted of which denied a man the right to marry his deceased wife's sister. The law of Iowa still retains many of these old common law prohibitions. They apply, however, to both men and women. Thus a man cannot marry his father's sister, mother's sister, father's widow, wife's mother, daughter, wife's daughter, son's widow, sister, son's daughter, daughter's daughter, son's son's widow, daughter's son's widow, brother's daughter, or sister's daughter. The same degrees of relationship are forbidden to women; thus a woman cannot marry her father's brother, mother's brother, mother's husband, husband's father, son, husband's son, daughter's husband, brother, son's son, daughter's son, son's daughter's husband, daughter's daughter's husband, brother's son, or sister's son. A further prohibition found in Iowa but not in all states is the marriage of first cousins.⁴

It is a common provision to prohibit the marriage of epileptics and feeble-minded of either sex. A rather odd exception is found in the laws of Kansas which permit women having such infirmities to marry after they are forty-five years of age.

⁴ Code of Iowa, 1931, sec. 10445.

DIVORCE

The tendency to place women on a basis of equality with men is further shown in the matter of divorce, the causes for which are as nearly as possible the same for men and women. Inasmuch as statistics seem to indicate that the number of wives obtaining divorces is about five times the number of husbands in cases where there are children and only twice as many where there are no children,⁵ the divorce laws have been of more benefit to wives than husbands. In fact, the law on divorce enumerates the causes against the husband for which a decree of divorce may be obtained as follows:

1. When he has committed adultery subsequent to the marriage
2. When he willfully deserts his wife and absents himself without a reasonable cause for the space of two years
3. When he is convicted of a felony after the marriage
4. When, after marriage, he becomes addicted to habitual drunkenness
5. When he is guilty of such inhuman treatment as to endanger the life of his wife⁶

This section is followed by a statement that "The husband may obtain a divorce from the wife for like cause."

Alimony

Alimony was at one time granted only to a wife and on the condition that she was the innocent party, as the law entitled her to support from her husband while he had no such claim against his wife. The term alimony is frequently used to indicate a compensation paid to the injured party as a substitute for the property rights acquired by marriage and then lost by divorce;⁷ a husband may thus be awarded alimony as well as a wife. The state of Illinois has only recently passed a reciprocal alimony act which provides that wives as well as husbands may be required to pay alimony when circumstances justify it.

PROPERTY RIGHTS OF MARRIED WOMEN

At common law a married woman had but few rights in property

⁵ Gallaher, Ruth A.: *Legal and Political Status of Women in Iowa: An Historical Account of the Rights of Women in Iowa from 1838 to 1918.* Iowa City, Iowa: State Historical Society of Iowa, 1918. Pp. xii, 300. (p. 80)

⁶ Code of Iowa, 1931, sec. 10475.

⁷ Gallaher, Ruth A.: *Legal and Political Status of Women in Iowa: An Historical Account of the Rights of Women in Iowa from 1838 to 1918.* Iowa City, Iowa: State Historical Society of Iowa, 1918. Pp. xii, 300. (p. 71)

separate from her husband. By marriage she was deprived of the control of her real property, and her personal property became absolutely his. A husband could truly tell his wife, "What's yours is mine, and what's mine is my own."

The history of the struggle of woman for property rights at law need not be retold here, but her rights in property are emphatically stated in the Code of Iowa (1931) as follows:

"A married woman may own in her own right, real and personal property, acquired by descent, gift, or purchase, and manage, sell, and convey the same, and dispose thereof by will, to the same extent and in the same manner the husband can property belonging to him."⁸

Moreover, a conveyance, transfer, or lien executed by either husband or wife to or in favor of the other is as valid as any conveyance or transfer between other persons.⁹

It is doubtful if those who early insisted that husband and wife could deal in a business way with each other as with other persons ever contemplated the sale of securities by a husband to a wife to establish income tax losses, and then be able to buy back the same securities without an actual loss.

Not only at common law but until comparatively recently a husband was as much entitled to the wages or earnings of his wife as he still is to those of his minor children. Today, however, a wife is entitled to the wages for her personal labor, and she may prosecute and defend all actions for the preservation and protection of her rights and property as if she were unmarried.¹⁰

Neither is a husband or a wife liable for the debts of the other incurred before marriage, and only as the law distinctly specifies is either liable for the debts of the other contracted after marriage.¹¹

The judges of the common law would have been horrified ever to think of a married woman as being able to enter into contracts the same as if she were unmarried, yet the laws of Iowa give her this right today.¹²

Under the common law a widow was entitled to one-third of her deceased husband's personal estate if there were children and one-half of it if there were none, and she was entitled to a dower or life

⁸ Code of Iowa, 1931, sec. 10446.

⁹ Code of Iowa, 1931, sec. 10449.

¹⁰ Code of Iowa, 1931, sec. 10461.

¹¹ Code of Iowa, 1931, sec. 10465.

¹² Code of Iowa, 1931, sec. 10466.

interest in one-third of his real property whether there were children or not. Little by little, this common law rule has been modified in Iowa. Today neither spouse can be deprived of one-third interest in the estate of the other if there are children and one-half of it if there are none. This is assuming that the party possessing the property died intestate. Either spouse may will his or her entire estate to the other.

A special provision was made in 1913 to preserve to the surviving spouse a small estate. This act reads as follows:

"If the intestate leaves no issue, the whole of the estate to the amount of \$7500, after the payment of debts and expenses of administration, and one-half of all the estate in excess of said \$7500 shall go to the surviving spouse and the other one-half of said excess to the parents. If no spouse, the whole shall go to the parents. In case of an adopted child, the parents by adoption shall inherit as if they were the natural parents."¹³

While this act applies to both husband and wife, the wife as widow probably is more vitally interested in it than the husband as widower as life insurance or property is more likely to be in the husband's name.

The law relative to the abandonment of one by either husband or wife is equal, though experience seems to show that men more frequently abandon their wives than wives abandon their husbands. In such cases the abandoned party may apply to the district court for authority "to manage, control, sell, and incumber the property of the guilty party for the support and maintenance of the family and for the purpose of paying debts."¹⁴ Thus a man possessed of property may hesitate to abandon his wife when by so doing he may lose control of his property.

In like manner, if the husband abandons the wife, she is entitled to the custody of the minor children unless the district court, upon application for that purpose, otherwise directs.¹⁵

PERSONAL RIGHTS OF WOMEN

Inasmuch as unmarried women have long been accorded practically all the civil rights which were accorded to men, a discussion of the personal rights of women must be understood as applying chiefly to married women. Among the personal rights of married

¹³ Code of Iowa, 1931, sec. 12017.

¹⁴ Code of Iowa, 1931, sec. 10455.

¹⁵ Code of Iowa, 1931, sec. 10460.

women as distinguished from property and political rights we may mention: personal protection, legal settlement, testimony, recovery for personal injuries, and guardianship of children.

Settlement and Legal Residence

Every individual is presumed to have a legal residence or domicile. This is easily established by persons who are economically independent. The economically dependent, however, must be able to show that they have acquired a settlement in a community before being entitled to relief. The settlement of a married woman, in accordance with the common law, followed that of her husband, and still does. However, if her husband has no residence in this state or if she lives apart from him or has been abandoned by him, she may acquire a settlement as if she were unmarried. This means that if she resides in the state for one year without being warned to deport she acquires a settlement in the county in which she is resident. Moreover, any settlement which the wife had at the time of her marriage can be resumed on the death of her husband or if divorced or abandoned by him. The choice of settlement is optional with her under the above circumstances, providing that both settlements are in this state.¹⁶ The question of settlement is largely concerned with poor relief, while legal residence determines where one votes and pays certain taxes. The legal residence of a married woman is presumed to be the same as that of her husband unless she left him for the purpose of obtaining a divorce. The state of Nevada is notorious for its laws which permit both men and women the right to acquire a residence for purposes of divorce in six weeks.

Name

There is no provision in the law of marriage in this state that a woman must take the name of her husband. This has from time immemorial been based upon the common law. Moreover, it has been judicially determined that a married woman's legal name is her own Christian name and her husband's surname. A married woman cannot change her name while her husband may change his. If a change of name is granted by the court, the new name assumed by the husband becomes the surname of his wife and minor children¹⁷ whether they like it or not. In divorce proceedings the court may decree that a woman be entitled to resume her maiden name.

¹⁶ Code of Iowa, 1931, sec. 5311.

¹⁷ Code of Iowa, 1931, Chap. 543.

Right to Testify

The testimony of a woman in court has the same validity as that of a man in all cases in which her husband is not involved.

Neither a husband nor a wife can be a witness against the other except in a criminal prosecution for a crime committed by one against the other, or in a civil action or proceeding of one against the other, or in a civil action by one against a third party for alienating the affections of the other, or in any civil action brought by a judgment creditor against the husband or the wife to set aside a conveyance of property from one to the other on the ground of want of consideration or fraud and to subject the same to the payment of his judgment.¹⁸ However, husband and wife may be witnesses for each other in all civil and criminal cases.¹⁹

Tort Claims Against Married Women

A tort is any wrongful act, not involving a breach of contract, for which a civil action will lie. At common law a husband was liable for the torts of his wife whether committed before or after marriage so long as both were alive. This rule has long ago been discarded in Iowa for the more modern doctrine that each individual is responsible for his own actions. This is expressed in the Code of Iowa as follows:

"For civil injuries committed by a married woman, damages may be recovered from her alone, and her husband shall not be liable therefor, except in cases where he would be jointly liable with her if the marriage did not exist."²⁰

Right to Recover for Personal Injuries

At common law married women were practically deprived of all opportunities to recover for injuries of any kind. The husband, however, was entitled to recover damages for injuries to his wife, and these damages included the loss of a wife's society and services.

In 1911, the General Assembly of Iowa modified the old rule by adopting the following:

"When any woman receives an injury caused by the negligence or wrongful act of any person, firm, or corporation, including a municipal corporation, she may recover for loss of time, medical attendance, and

18 Code of Iowa, 1931, sec. 11260.

19 Code of Iowa, 1931, sec. 11261.

20 Code of Iowa, 1931, sec. 10467.

other expenses incurred as a result thereof in addition to any elements of damages recoverable by common law.'²¹

If such injury resulted in death, her administrator could sue and recover for her estate the value of her services as a wife or mother or both. At first the amount of damage recoverable was limited to six thousand dollars, but when the code was revised in 1924, the amount was left for the determination of the jury, which amount was to be "in addition to such damages as are recoverable by common law." Punitive damages, however, were not to exceed fifteen thousand dollars.²² In commenting on these provisions, Gallaher says, "Thus, by 1915 a woman in Iowa, even though she were married and engaged in housekeeping, came to be recognized as an individual with a right to secure compensation in her own right for pain and for loss of time. The old rule that everything the wife earned belonged to her husband has been displaced at least partially by new statute law."²³

The law of 1911 referred to above was repealed in 1931 and the following enacted in lieu thereof:

"In any action for damages because of the wrongful or negligent injury or death of a woman, there shall be no disabilities or restrictions, and recovery may be had on account thereof in the same manner as in cases of damage because of the wrongful or negligent injury or death of a man. It is the purpose of this section to remove any common law disabilities or restrictions upon women or the rights of women, whether single or married, and to give women the same rights and the same status as are possessed by men."²⁴

The general use of the automobile has come since 1911 and motor car accidents have increased at an appalling rate. It was probably the intent of the act of 1931 to restrict damages to the individual injured and not permit a husband to sue in addition for the loss of the society and services of his wife.

Since women attained political equality, there has been a tendency to put both sexes on a basis of equality in all civil matters. A married woman may in all cases sue and be sued without joining her

²¹ Code of Iowa, 1927, sec. 10462.

²² Code of Iowa, 1927, sec. 10463-10465.

²³ Gallaher, Ruth A.: *Legal and Political Status of Women in Iowa: An Historical Account of the Rights of Women in Iowa from 1838 to 1918.* Iowa City, Iowa: State Historical Society of Iowa, 1918. Pp. xii, 300. (p. 34)

²⁴ Code of Iowa, 1931, sec. 10991-d1.

husband with her, and an attachment or judgment in such actions shall be enforced by or against her as if she were single.²⁵

Guardianship of Children

The common law rule that the father was the natural guardian of his minor children has given way to the joint guardianship by both parents unless otherwise decreed by the court.

WOMEN IN INDUSTRY

When we speak of women in industry, we generally have in mind that group of women who perform manual labor for wages. Iowa being primarily an agricultural state, the number of women employed in industry is relatively small; as a result legislation for their protection has been backward because the necessity for it has not seemed great.

Industrial legislation can be divided into at least four categories: (1) hours of employment, (2) minimum wage, (3) prohibited employments, and (4) facilities for rest.

Iowa is one of a very small group of states that has no limitation upon the number of hours that women may work, nor has Iowa any legislation fixing a minimum wage for women workers.

Women have been excluded from work in mines in Iowa for over half a century, and in the days of the mullet saloon women were forbidden to work in such places. But apparently there is nothing to prohibit women from working in hotels, restaurants, or other places where beer may now be sold.

The significant piece of legislation in Iowa relating to women in industry is the requirement that "All employers of females in any workshop, mercantile, or manufacturing business or establishment shall provide and maintain suitable seats, when practicable, for the use of such female employees, at or beside the counter or workbench where employed, and permit the use thereof by such employees to such extent as the work engaged in may reasonably admit."²⁶

Separate water closets or privies must be maintained for men and women working in the same establishments.

Laws such as these do not enforce themselves and so by law one of the factory inspectors in the bureau of labor must be a woman,

²⁵ Code of Iowa, 1931, sec. 10992.

²⁶ Code of Iowa, 1931, sec. 1485.

whose duty it is to inspect the sanitary and general conditions of all factories, workshops, hotels, cafes, restaurants, stores, and establishments and places where women and children are employed. Her authority seems limited to reporting and recommending measures which will improve the working conditions of women and children.²⁷

The commissioner of labor is commanded to make special reference to her reports and recommendations in his biennial report to the governor. Thus it would seem that publicity and the influence of public opinion is relied upon to correct abuses.

New York, Kansas, and Oregon can be classed among the most progressive states in the passage of legislation for the protection of women in industry. In all these states the hours of employment for women are limited. An eight hour limitation applies to all trades and businesses except farming and domestic service in New York. In Kansas and Oregon there is no statutory limitation of hours, but limitations are authorized and imposed through administrative agencies of the state.

In like manner each of the three states has some minimum wage legislation. The amount of the wage is determined by an administrative body that has charge of the administration of other provisions of the labor law in the state. In New York the administration of such legislation is integrated into the state department of labor. One unit in the department is a bureau of women in industry supervised by a chief and assisted by not less than six investigators, all of whom the law specifies must be women. One of the six must be a registered physician in the state of New York or trained in public health work.²⁸ In addition, the laws of New York provide for an industrial board composed of five members, who are appointed by the governor. This board makes the rules and regulations under which the bureau of women in industry operates. These rules constitute an industrial code for New York. It is this bureau that makes investigations in regard to the adequacy of compensation. In regard to wages, the statute simply states that the prevailing wage shall be paid.²⁹

Minimum wages in Oregon are devised by the Industrial Welfare Commission. Oregon legislation gives the industrial welfare com-

²⁷ Code of Iowa, 1933, sec. 1516.

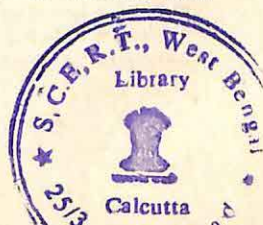
²⁸ Code of New York, 1930, Chap. 32, sec. 20a.

²⁹ Code of New York, 1930, Chap. 32, sec. 29.

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mission authority to regulate length of work day, conditions of labor, and minimum wage. Should a woman in Oregon be employed for less than the minimum wage, she can recover the full amount of the minimum wage in a civil action.³⁰

Minimum wages for women in Kansas are established by a court of industrial relations. Legislation in Kansas gives this body complete supervision over industrial matters, including length of the working day or week and establishment of a minimum wage.³¹

In these three states certain kinds of employment are closed to women. New York makes use of legislation to prohibit women from working in certain types of employment.³² However, Kansas and Oregon depend largely upon administrative control.

In all of the three states the administrative agencies have authority to prescribe certain standards that industries must maintain if women are employed. The authority is usually given in general terms such as may be necessary to protect the health of women employees. All industries are subject to inspection to determine whether or not the regulations formulated are being complied with.

As to facilities for rest, each of the states requires that the employee be allowed one day in seven free of work.³³ Furthermore, night work is restricted so that a woman will not be required to work through the night and the following day. Moreover, the three states require that seats be furnished in factories in which women are employed. A period for lunch and rest is prescribed in each of the three states. In New York the period for lunch is broadly defined by legislation, while Kansas and Oregon depend upon administrative control of this matter.

As an added protection to women in industry, the laws of New York prohibit the employment of women within four weeks after giving birth to a child.³⁴ The laws of Oregon and Kansas do not mention this form of protection. This does not necessarily mean that these states are without protection. The broad grant of power given by the legislature to the Court of Industrial Relations and to the Industrial Welfare Commission may mean that the control in

³⁰ Code of Oregon, 1930, Chap. 49, sec. 315, 319.

³¹ Code of Kansas, 1923, Chap. 44, sec. 643.

³² Code of New York, 1930, Chap. 32, Art. 4, sec. 146, 147.

³³ Code of New York, 1930, Chap. 32, sec. 161; Code of Oregon, 1930, Chap. 9, sec. 315; Code of Kansas, 1923, Chap. 44, sec. 645.

³⁴ Code of New York, 1930, Chap. 32, Art. 4, sec. 148.

Kansas and Oregon is by means of the administrative body rather than by legislation.

In comparison with provisions such as those found in New York, Kansas, and Oregon, the laws of Iowa in relation to women in industry are indeed backward.

WOMEN AND THE CRIMINAL LAW

Sex Crimes

The status of women under the criminal laws of Iowa requires no extended consideration inasmuch as the criminal law applies equally to both sexes except in a few minor details. It is the purpose of the writer to mention only those crimes which are based upon differences of sex.

The common law was no doubt less favorable to women in the matter of sex crimes than present day statute law. The common law fixed the age of consent at ten years. This age has been gradually raised in this state by statute until it is now sixteen years.³⁵ Various attempts have been made in recent years to raise the age of consent to eighteen years, but without success. The law has, however, provided that if any person over twenty-five years of age carnally knows or abuses any female under seventeen years of age he shall be punished as for rape. Imbecile women and those drugged are held to be incapable of consent and those who have carnal knowledge of such women may be punished the same as for rape. The punishment for rape may be imprisonment for life or any term of years not less than five.³⁶

Prostitution itself is a crime, but most of the law relating to prostitution is designed to protect women and especially minor females from being taken or enticed into any house of ill fame.³⁷

Forceful marriage and defilement of any woman irrespective of her age may be punished by a fine not exceeding one thousand dollars and imprisonment not exceeding ten years. However, no person can be convicted unless the evidence of the prosecuting witness is corroborated by other evidence.³⁸

Seduction usually involves promise of marriage or some form of deceit rather than the use of force or drugs. A woman claiming to

³⁵ Code of Iowa, 1931, sec. 12966.

³⁶ Code of Iowa, 1931, sec. 12967.

³⁷ Code of Iowa, 1931, Chap. 591.

³⁸ Code of Iowa, 1931, Chap. 567.

have been the victim of a seducer must be unmarried and be able to prove previously chaste character in order successfully to prosecute.³⁹ But if the defendant marries the woman before judgment has been passed by the court, it is a bar to any further prosecution for the offense.⁴⁰ If, however, a man marries a woman for the purpose of escaping prosecution for seduction and then deserts her without good cause, he is deemed guilty of a misdemeanor and may be punished accordingly.⁴¹

Maternity Hospitals

It may seem strange to the reader to consider the subject of maternity hospitals under the general heading of *Women and the Criminal Law*. But inasmuch as most of the legislation relating to such hospitals seems to be founded on the assumption that the chief purpose of such hospitals is the evasion or violation of some of the criminal laws of the state, it seems appropriate to consider the subject here.

The law assumes that a child once conceived has a right to be born alive no matter how unwelcome it may be. Abortion has, therefore, been made a serious crime.⁴² The licensing and regulation of maternity hospitals are largely concerned with the care and protection of unfortunate women and their unfortunate offspring.⁴³ The law requires that every birth occurring in a maternity hospital shall be attended by a legally qualified physician.⁴⁴ This provision would seem to exclude midwives in such hospitals, although such persons seem to have legal recognition in attendance upon births elsewhere.⁴⁵

There is an apparent assumption in the law relative to maternity hospitals that the births occurring there are illegitimate. This is evident from the provisions that certain reports which such hospitals are required to make to the State Board of Health "shall be accessible to the members of the board of control and authorized employees thereof, the Attorney General, and any County Attorney,

³⁹ Code of Iowa, 1931, sec. 12970.

⁴⁰ Code of Iowa, 1931, sec. 12971.

⁴¹ Code of Iowa, 1931, sec. 12972.

⁴² Code of Iowa, 1931, sec. 12973.

⁴³ Code of Iowa, 1931, Chap. 181-A2.

⁴⁴ Code of Iowa, 1931, sec. 3661-a30.

⁴⁵ Code of Iowa, 1931, sec. 2399-2400.

but said reports shall not be accessible to any other person except on the order of a court of record."⁴⁶

Women Offenders

Statistics show that women do not come before the criminal courts as offenders so frequently as men do. Public policy demands that provision for their detention and care should be made separate from those made for men. This, however, is almost impossible in small communities, even though the code requires that "all jails shall be equipped with a separate apartment for females."

In cities of 25,000 or over, the mayor may appoint a police matron for each station house provided for the detention of women or children under arrest, and in cities of 35,000 or over, he must appoint such a person. The police matron must be a woman over thirty years of age and a resident of the city in which she serves.⁴⁷ She accompanies women and children under arrest to court when necessary.⁴⁸

At first, women offenders were kept in separate quarters at the State Reformatory at Anamosa. About 1900, the Iowa Industrial Reformatory for Females was established as a separate institution but was located in connection with the Anamosa Reformatory. In 1913, the state made provision for the purchase of a new site for the detention of women offenders; it was located at Rockwell City and was named "The Women's Reformatory."

Whenever any girl between ten and eighteen years of age is convicted of an offense punishable by life imprisonment, she may be sent to either the Women's Reformatory or to the Industrial School for Girls as the court may decide.⁴⁹

All females over eighteen years of age and all married females under eighteen years of age who may be convicted in the district court of an offense punishable by imprisonment in excess of thirty days must, if imprisonment is imposed, be committed to the Women's Reformatory.⁵⁰ It is this provision which keeps women offenders out of our county jails for the most part. Any female com-

⁴⁶ Code of Iowa, 1931, sec. 3661-a33.

⁴⁷ Code of Iowa, 1931, sec. 5635.

⁴⁸ Code of Iowa, 1931, sec. 5659.

⁴⁹ Code of Iowa, 1931, sec. 3727.

⁵⁰ Code of Iowa, 1931, sec. 3726.

mitted to the Women's Reformatory must be accompanied by some woman or by a peace officer and a woman appointed by the court.⁵¹

The Code of Iowa provides that no pregnant woman upon whom the death sentence has been passed can be executed, at least not until after the birth of her child.⁵²

⁵¹ Code of Iowa, 1931, sec. 3730.

⁵² Code of Iowa, 1931, sec. 13982-13984.

Chapter II

CHILD LEGISLATION IN IOWA

INTRODUCTION

In spite of all the affection and devotion bestowed by many parents upon their children, it has nevertheless been necessary to fix by law the rights and obligations of children as well as the duties and responsibilities of parents.

In the not far distant past it was a common practice for a father to apprentice his children, especially boys, at an early age to a life of hard work. Today the tendency of legislation is to extend its protection and care over children in order to try to insure to them the joys of childhood and youth in order to give them time and opportunity to grow, to be educated, and thus to become good citizens.

The laws of Iowa do not always apply uniformly to all children up to the age of their majority. In the first place there are numerous classifications as to age, particularly in respect to industry, crime, and dependency. Special provisions of law apply to (1) the unborn as well as the born, (2) the legitimate and the illegitimate, (3) male and female, (4) the normal and the abnormal, (5) the healthy and the diseased, (6) the poor and the propertied, (7) the employed and the unemployed, (8) those of school age and those not of school age, (9) the delinquent and the law-abiding, (10) the imprisoned and the paroled, (11) the single and the married, and (12) the orphaned, neglected, and abandoned as well as those under adequate parental care.

Thus it can readily be seen that legislation relating to the child in Iowa covers a very wide range of topics. These laws are scattered throughout the entire code, and are often amended by the General Assembly. The writer has diligently tried to include all of the provisions of the law relating to minors, and although omissions may be found, it is believed that they are not serious ones.

The material presented in this study is in no way intended as a children's code, but rather as a narrative account of the various phases of child legislation now on the statute books. The author

has not attempted to suggest what the law of the state in this field ought to be. Having been shown what the law is, the experts in the field of child welfare can readily suggest the omissions or necessary amendments. Neither has the writer attempted to deal with the administration or the interpretation of the law, as this would make a special study in itself and is beyond the scope of this monograph.

CITIZENSHIP AND DOMICILE

The citizenship of children in the United States is determined by the provisions of the Fourteenth Amendment to the constitution of the United States which states that: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." Congress, however, has full power to prescribe who may be naturalized, and has limited citizenship by naturalization to white persons or persons of African nativity or of African descent. No state can withhold citizenship from those born within its own jurisdiction or within that of the United States. The Supreme Court of the United States has held that children born in the jurisdiction of the United States are citizens even though their parents (being Chinese or Japanese) are denied citizenship by naturalization under the laws of Congress. Thus it is apparent that the children of Iowa gain their citizenship in the United States and in the state under the provisions of the Federal constitution and the laws of Congress.

Each state may make reasonable provisions as to how and under what conditions persons may qualify for the exercise of rights and the enjoyment of privileges within the state according to its constitution and laws. Suffrage not being granted to minors need not be considered here, but the right to acquire a legal settlement is of importance to every child.

Legal Settlement

The provisions of the law relative to acquiring a settlement in Iowa by adults has already been explained⁵³ and need not be repeated. Legal settlement may be defined as a residence under such circumstances as to entitle a person to support or assistance in case of becoming a pauper. The legal settlement of minors is usually acquired by birth in a community or by the legal settlement of one

⁵³ See page 17.

or both parents. There are two provisions in the code relative to the settlement of minors: (1) legitimate minor children take the settlement of the father if there is one, if not, then that of the mother; (2) illegitimate minor children take the settlement of their mother, or if she has none, then that of their putative father.⁵⁴

In most cases of determining the right of orphaned, abandoned, neglected, or pauper children to public relief, the chief problem is to determine first where they have a legal settlement for that is the place from which relief should come.

REGISTRATION OF BIRTHS

The value of keeping accurate vital statistics has long been recognized, but many states have been slow in adopting adequate legislation to accomplish that end. With the revision of the code in 1924, Iowa adopted an effective vital statistics law. According to this law, three different registration districts are provided in each county⁵⁵ and the board of supervisors is required to appoint a local registrar for each registration district in the county. In cities having a population of 35,000 or more the local board of health may appoint such registrars.⁵⁶ These local registrars are subject to the direction and supervision of the state registrar of vital statistics, thus insuring uniformity in the data required and the method of making reports.

Birth certificates must be made in conformity to and on the United States standard form approved by the bureau of the census and must contain the following information:

1. Place of birth—including state, county, township, town or city
2. Full name of child—if the child dies without a name before the certificate is filed, the words "died unnamed" shall be entered
3. Sex of child
4. Plurality of birth—number each child in order of birth. A separate certificate shall be issued for each child in case of plural births.
5. Legitimacy of birth
6. Date of birth
7. Full name of father
8. Residence of father
9. Color or race of father
10. Age of father at last birthday

⁵⁴ Code of Iowa, 1931, sec. 5311 as amended by Chap. 99, Acts of the Forty-Fifth General Assembly.

⁵⁵ Code of Iowa, 1931, sec. 2385.

⁵⁶ Code of Iowa, 1931, sec. 2389.

11. Birthplace of father
12. Occupation of father
13. Maiden name of mother
14. Residence of mother
15. Color or race of mother
16. Age of mother at last birthday
17. Birthplace of mother
18. Occupation of mother
19. Number of children born to the mother
20. Number of children of the mother living
21. Certification of attendance at birth including:
 - a. Statement of year, month, day
 - b. Hour of birth
 - c. Whether the child was alive or still-born

The certificate must be signed by the attending physician.⁵⁷

The attending physician or person acting as midwife is made responsible for the proper execution and return of this certificate.⁵⁸ In case there was no physician or person acting as midwife, a list of other persons is named whose duty it shall be to make a report within ten days to the local registrar.⁵⁹

Any person licensed to maintain a maternity hospital must make the report indicated above within twenty-four hours after a birth in such hospital and in addition must make a like report to the state board of control with "such additional information as shall be within the knowledge of the licensee, and as may be required by the board."⁶⁰ It is no doubt this "additional information" which the state has sought to keep from the eyes of the curious by providing that it shall not be open to general public inspection.⁶¹

WHO ARE CHILDREN IN IOWA

Each country fixes the age of majority for its own citizens. In the United States we followed the old English law in force at the time of the American Revolution which fixed the age of majority for males at twenty-one years and for females at eighteen. Since the granting of full and equal civil and political rights to women, the period of minority for girls has been raised to twenty-one years for everything except marriage. After reaching the age of eight-

⁵⁷ Code of Iowa, 1931, sec. 2398.

⁵⁸ Code of Iowa, 1931, sec. 2399.

⁵⁹ Code of Iowa, 1931, sec. 2400.

⁶⁰ Code of Iowa, 1931, sec. 3661-a31.

⁶¹ Code of Iowa, 1931, sec. 3661-a33.

een years, a girl may make a valid contract for marriage the same as an adult and without parental consent.⁶²

Many laws apply only to children of certain ages or under certain circumstances. Except as stated above, all normal minors not under conviction of crime are presumed to be under the control of parent or guardian or of some institution having the authority of parent or guardian until they reach their legal majority. The law on neglected dependent and delinquent children defines a child as any person under eighteen years of age.⁶³ Persons over eighteen and under twenty-one years of age may not be considered as children, but are still considered as minors.

Guardianship

Every minor is presumed to be under guardianship. The law declares that the parents are the natural guardians of their minor children and are equally entitled to their care and custody.⁶⁴ If both parents are dead, the district court must appoint a guardian who has the same power and control over his ward that the parents would have if they were alive.⁶⁵ A minor over fourteen years of age, however, if of sound mind may select his own guardian subject to the approval of the district court.⁶⁶

CHILDREN'S RIGHT TO BE PROTECTED AND CARED FOR

Domestic or Private Care of Children

By Parents or Guardians.—Inasmuch as all children are presumed to be under the care of parent or guardian, there is an obligation upon the parent or guardian to furnish the child with a home and adequate care and maintenance according to his circumstances. Parental love is usually sufficient to do this without legislative mandate, but there are many cases in which the state must prod a delinquent parent or guardian to compel him to fulfill his duties and obligations. In some cases the state itself must assume the control and guidance of a child.

This topic naturally includes dependent and defective children but, inasmuch as dependent and delinquent children are considered in the same chapters of the code and in many instances are evident-

⁶² Code of Iowa, 1931, sec. 10492.

⁶³ Code of Iowa, 1931, sec. 3620.

⁶⁴ Code of Iowa, 1931, sec. 12573.

⁶⁵ Code of Iowa, 1931, sec. 12574.

⁶⁶ Code of Iowa, 1931, sec. 12576.

ly treated alike, it seems expedient to consider delinquent children and juvenile offenders under this general heading.

The manifest purpose of much of the legislation relating to juvenile delinquents is ultimately to make good citizens out of them. The law tries to insure every child a home and adequate care, maintenance, and education. Prior to the revision of the code in 1924, there were numerous provisions requiring care and support of an apprentice by his master, in addition to the provisions requiring parents or guardians to give proper care and support to children under their control. The right of a parent to apprentice his minor child became in many instances a system of involuntary servitude until the child reached his majority. This relic of the old common law was omitted by the code commissioners "as obsolete, archaic and in conflict with the child labor law, the compulsory school law and other modern statutes for the protection of children."⁶⁷

The law assumes that parents will support and care for their own children, and it is only when parental neglect is evident that the law attempts to define parental duties and obligations.

By Adoption.—Adoption is the act by which a person takes the child of another into his family and treats him as his own. To establish the relation of parent and child between such persons requires legal sanction.

The law of adoption is naturally explicit in its provisions regarding the care and protection of children who might otherwise be neglected. In order that adoption should be more than an emotional impulse, the whole law of adoption has been largely rewritten and strengthened in recent years. The procedure is now more formal than heretofore.

In order to adopt a child one must be of lawful age and petition a court of record in the county in which he or the child resides for permission to do so. If one wishing to adopt a child is married, the spouse must join in the petition for adoption. A person of full age may be adopted by another, but no one other than the parent of a child can assume the permanent care and custody of a child under fourteen years of age except in accordance with the provisions of chapters 181-A4 or 473 of the code.⁶⁸

The law on adoption of children who are inmates of the Iowa

⁶⁷ See Code Commissioners Bill No. 218.

⁶⁸ Code of Iowa, 1931, sec. 10501-b1 (Chap. 181-A4 relates to child placing agencies and Chap. 473 deals with adoption.)

Juvenile Home or Iowa Soldiers' Orphans' Home is not in harmony with that just described. Children in the Iowa Soldiers' Orphans' Home "may be adopted by any citizen of this state upon the recommendation of the superintendent, and with the approval of the board."⁶⁹ Children in the Juvenile Home "may be adopted or placed with other persons under contract and repossessed by the board for other disposition in the same manner and with the same effect as provided in the chapter relating to the Soldiers' Orphans' Home."⁷⁰

It will be noted that nothing is here said about the consent of the other spouse, court inquiry, or a period of delay before adoption is completed. We may assume, however, since these institutions are under the jurisdiction of the board of control that the interests of the children in these homes will be adequately safeguarded.

Where one petitions to adopt a child, the responsibility is now placed upon the court to verify the allegations in the petition; to investigate the conditions and antecedents of the child for the purpose of ascertaining whether he is a proper subject for adoption, as well as to determine whether the proposed foster home is a suitable one for the child. Under ordinary circumstances the court will not grant a petition for the adoption of a child until the child has lived for a period of six months in the proposed home.⁷¹

A long and detailed section describes how one may assign, relinquish, or otherwise transfer to another his rights or duties with respect to the permanent care or custody of a child under fourteen years of age.⁷²

When the court is satisfied that the person or persons desiring to adopt a child are able to rear and educate the child properly, a decree is entered in the office of the clerk setting forth the facts and including the name of the child, the name of its parents, and the names of the persons adopting it. The decree also shows the name under which the child shall henceforth be known, may change the name of the child, and declares that from the date indicated in the decree the child shall be known as the child of the petitioners.⁷³

The law specifically states that after the decree just mentioned

⁶⁹ Code of Iowa, 1931, sec. 3714.

⁷⁰ Code of Iowa, 1931, sec. 3702.

⁷¹ Code of Iowa, 1931, sec. 10501-b2.

⁷² Code of Iowa, 1931, sec. 10501-b3.

⁷³ Code of Iowa, 1931, sec. 10501-b5.

has been entered "the rights, duties, and relationships between the child and parent by adoption shall be the same that exist between parents and child by lawful birth and the right of inheritance from each other shall be the same as between parent and children born in lawful wedlock."⁷⁴

An interesting provision of recent enactment provides for the annulment of an adoption as follows:

"If within five years after the adoption, a child develops feeble-mindedness, epilepsy, insanity or venereal infection as a result of conditions existing prior to the adoption and of which the adopting parent had no knowledge or notice, a petition setting forth such facts may be filed with the district court of the county where the adoptive parents are residing. If upon hearing the facts alleged are proved, the court may annul the adoption and commit the child to the guardianship of the state board of control. In every such proceeding it shall be the duty of the county attorney to represent the interests of the child."⁷⁵

By Child Placing Agencies.—Closely related to the subject of adoption is the law relative to child placing agencies. Any agency, public, semi-public, or private, which represents itself as placing children permanently or temporarily in private family homes or receives children for such purposes must obtain a license, good for one year only, from the board of control of state institutions.⁷⁶ Special precautions are taken in the law to see that such licenses are issued only to properly trained and qualified persons.⁷⁷ The right of the board of control to revoke licenses for cause is asserted,⁷⁸ as is also the right to visit and inspect such agencies at any time.⁷⁹ The board is required to have the premises of such child placing agencies inspected once every six months,⁸⁰ and may have its agents visit and inspect the foster home of the child.⁸¹ Provision is made for detailed reports by child placing agencies to the board of control of state institutions.⁸²

Information acquired through the operation of child placing agencies is declared to be confidential and not to be directly or in-

⁷⁴ Code of Iowa, 1931, sec. 10501-b6.

⁷⁵ Code of Iowa, 1931, sec. 10501-b7.

⁷⁶ Code of Iowa, 1931, sec. 3661-a59 — 3661-a60.

⁷⁷ Code of Iowa, 1931, sec. 3661-a61.

⁷⁸ Code of Iowa, 1931, sec. 3661-a67.

⁷⁹ Code of Iowa, 1931, sec. 3661-a76.

⁸⁰ Code of Iowa, 1931, sec. 3661-a77.

⁸¹ Code of Iowa, 1931, sec. 3661-a88.

⁸² Code of Iowa, 1931, sec. 3661-a80, 3661-a87.

directly disclosed except upon inquiry by or before certain named agencies or officers of the government.⁸³

“No person may assign, relinquish, or otherwise, transfer to another his rights, or duties with respect to the permanent care or custody of a child under 14 years of age unless specifically authorized or required so to do by an order or decree of court, or unless the parent or parents sign a written release attested by two witnesses, of the permanent care and custody of the child to an agency licensed by the board of control.”⁸⁴

One parent cannot sign a release as indicated above without the written consent of the other unless the other is dead or hopelessly insane, or has been for the year immediately preceding under indictment for abandoning the family, or imprisoned for crime, or is an inmate or keeper of a house of ill fame, or has been deprived of the custody of the child by judicial proceedings because of unfitness to be its guardian, or unless the parents are not married to each other.⁸⁵

When a child has once been surrendered in accordance with the provisions of the law, it cannot be recovered by the parents except through a decree of the court based upon proof that the child is neglected by its foster parents, guardian, or custodian as neglect is defined by the law relating to neglected children.⁸⁶

Sec. 3661-a89 defines the authority of child placing agencies as follows:

“Any institution incorporated under the laws of this state or maintained for the purpose of caring for, placing out for adoption, or otherwise improving the condition of unfortunate children may, under the conditions specified in this chapter and when licensed in accordance with the provisions of this chapter:

1. Receive neglected, dependent, or delinquent children who are under 18 years of age, under commitment from the juvenile court, and control and dispose of them subject to the provisions of chapter 180.
2. Receive neglected, dependent, or delinquent children under 21 and over 18 years of age, under commitment from the juvenile court and control and dispose of them as in this chapter provided.
3. Receive, control, and dispose of all minor children voluntarily surrendered to such institutions.”

The desire of the state to be protected against the importation of

⁸³ Code of Iowa, 1931, sec. 3661-a81.

⁸⁴ Code of Iowa, 1931, sec. 3661-a83.

⁸⁵ Code of Iowa, 1931, sec. 3661-a84.

⁸⁶ Code of Iowa, 1931, sec. 3661-a86.

children who may become public charges is safeguarded by a provision which prohibits any agency from bringing into the state any child for the purpose of placing him out or procuring his adoption without first obtaining the consent of the board of control of state institutions. The board, moreover, is empowered to make rules by which child placing agencies must be bound.

No child can come into the state through any child placing agency until the board of control has been notified of the name, age, and personal description of the child and the address of the person with whom the child is to be placed.⁸⁷ Until such a child is eighteen years of age or is legally adopted a report must be made at least once a year, and at such other times as the board of control may require, of the location and well-being of the child as long as the child remains in this state.⁸⁸ These provisions, however, do not prohibit a resident of this state from bringing into the state a child for adoption into his own family.⁸⁹

Neither can a child be taken out of the state for the purpose of placing him in a foster home, except by parent or guardian, without giving the board of control the notice, information, and reports indicated above in cases of children coming into the state.⁹⁰

Child placing agencies must enter into written agreements with persons taking children. These agreements must provide that the agency shall have access at all reasonable times to the child and to the home in which it is living. The agreement must also provide for the return of the child whenever the agency or the board of control believes that the best interests of the child require it.⁹¹ But this does not apply in cases where children have been legally adopted.⁹²

The state, having children in its custody in either the Iowa Juvenile Home or the Iowa Soldiers' Orphans' Home, is authorized to place such children under contract with any suitable person or family. Such contracts provide for the custody, care, education, maintenance, and earnings of the child for a fixed time, not extending beyond the age of majority.⁹³

⁸⁷ Code of Iowa, 1931, sec. 3661-a93.

⁸⁸ Code of Iowa, 1931, sec. 3661-a94.

⁸⁹ Code of Iowa, 1931, sec. 3661-a95.

⁹⁰ Code of Iowa, 1931, sec. 3661-a96.

⁹¹ Code of Iowa, 1931, sec. 3661-a97.

⁹² Code of Iowa, 1931, sec. 3661-a98.

⁹³ Code of Iowa, 1931, sec. 3702, 3716.

No one in charge of a maternity hospital shall, as an inducement to a woman during confinement, offer to dispose of any child or advertise that he will give children for adoption or hold himself out as being able to dispose of children in any manner.⁹⁴

INSTITUTIONAL CARE OF CHILDREN

Institutional care of children is usually looked upon as a poor substitute for home care, and yet there are so many instances in which institutional care with all of its drawbacks is greatly superior to the home environment of the child.

Institutional care of children is naturally concerned with the neglected and dependent, the defective, and the delinquent.

In Iowa there are nine state institutions for the care of dependent, defective, and delinquent children. The Iowa Soldiers' Orphans' Home and the Juvenile Home are essentially for the care of abandoned, neglected, or dependent children. The institutions caring for the defective are the schools for the deaf and the blind; separate institutions are maintained for the feeble-minded and the epileptic; and a hospital for crippled children is maintained. Separate training or reform schools for boys and girls are maintained. All of these except the schools for the deaf and the blind and the hospital for crippled children are under the care and management of the board of control of state institutions.

Counties of over 40,000 population are required to maintain a suitable detention home and school for dependent, neglected, and delinquent children,⁹⁵ but the board of control has the right of visitation, inspection, and supervision.⁹⁶

Under the present code a dependent or neglected child means "any child who, for any reasons:

1. Is destitute or homeless, or abandoned
2. Is dependent upon the public for support
3. Is without proper parental care or guardianship, or habitually begs or receives alms
4. If under ten years of age, is engaged in giving any public entertainment in public places for pecuniary gain for himself or for another, or who accompanies or is used in aid of any person so doing
5. Is found living in any house of ill fame or with any vicious or disreputable persons

⁹⁴ Code of Iowa, 1931, sec. 3661-a29.

⁹⁵ Code of Iowa, 1931, sec. 3653.

⁹⁶ Code of Iowa, 1931, sec. 3655.

6. Is living in a home which is unfit for such child; or is living in a home wherein because of carelessness or neglect of a person or persons having a transmissible disease of a serious nature as determined by the local board of health, local health officer, or the state department of health, the health of said child may be in danger
7. Is living under such unfit surroundings as bring such child in the opinion of the court, within the spirit of this chapter."⁹⁷

The code defines a delinquent child as one:

- "1. Who habitually violates any law of this state, or any town or city ordinance
2. Who is incorrigible
3. Who knowingly associates with thieves, or vicious or immoral persons
4. Who is growing up in idleness or crime
5. Who knowingly frequents a house of ill fame
6. Who patronizes any policy shop or place where any gaming device is located
7. Who habitually wanders about any railroad yards, gets upon moving trains or enters any car or engine without lawful authority."⁹⁸

Although dependent and delinquent children are thus separately defined, the code nevertheless declares that the chapter on neglected, dependent, and delinquent children shall "apply to all children who are not feeble-minded and who are under eighteen years of age and who are not inmates of any state institution, or any institution incorporated under the laws of this state."⁹⁹ Neither does it apply to any child accused of an offense which is punishable by life imprisonment or death.

There is really little distinction made in the procedure by which dependent and delinquent children are committed to any one of the institutions designed for their care and education. Moreover, the board of control may at any time transfer children from any one of the institutions for the care of the dependent and delinquent to the other when the welfare of the child in the opinion of the board of control will be promoted.¹⁰⁰ If any dependent or delinquent child is found to be feeble-minded, he may be transferred to the institution for feeble-minded or to the hospital for epileptics.

Commitments of dependent and delinquent children "shall be until the child attains the age of twenty-one years, but the board of control may release or discharge the child at any time after it has

⁹⁷ Code of Iowa, 1931, sec. 3618.

⁹⁸ Code of Iowa, 1931, sec. 3619.

⁹⁹ Code of Iowa, 1931, sec. 3617.

¹⁰⁰ Code of Iowa, 1931, sec. 3648.

attained the age of eighteen years if such action will in the judgment of the board, be best for the child."¹⁰¹

Dependent Children

Iowa Soldiers' Orphans' Home.—This institution was established shortly after the Civil War for the care of the "destitute children of soldiers, sailors and marines, residents of this state, orphans of soldiers under fifteen years of age, who are destitute or unable to care for themselves." By subsequent legislation other destitute children have been admitted. Today it is open to resident children of the state under eighteen years of age in the following order of preference:

1. Destitute children and orphans, unable to care for themselves, of soldiers, sailors or marines
2. Neglected or dependent children committed thereto by the juvenile court
3. Other destitute children¹⁰²

The objects of the home are stated in the code as follows:

"The Iowa Soldiers' Orphans' Home shall be maintained for the purpose of providing for children therein a common school education and such useful and regular employment and training as will enable them to be self-sustaining. The board of control and superintendent of the home shall assist all discharged children in securing suitable homes and proper employment."¹⁰³

Children in the Iowa Soldiers' Orphans' Home are declared to be wards of the state and subject to the rules and regulations of the Home. Any child received under voluntary application may be expelled by the superintendent for disobedience and refusal to submit to proper discipline.¹⁰⁴

Children in the Iowa Soldiers' Orphans' Home are entitled to any profits from their labor while in the Home, and when discharged are to be paid "in proportion as his labor contributed to the fund" thus accumulated.¹⁰⁵

Children in the Home may be adopted by any citizen of this state upon the recommendation of the superintendent and with the ap-

¹⁰¹ Code of Iowa, 1931, sec. 3649.

¹⁰² Code of Iowa, 1931, sec. 3708.

¹⁰³ Code of Iowa, 1931, sec. 3706.

¹⁰⁴ Code of Iowa, 1931, sec. 3712.

¹⁰⁵ Code of Iowa, 1931, sec. 3711.

proval of the board of control.¹⁰⁶ Or they may be placed out under contract with any proper person or family who will agree to provide for the custody, care, education, maintenance, and earnings of a child for a fixed time, not to extend beyond the age of majority.¹⁰⁷

It is made "unlawful for any parent or other person not a party to the placing of a child by adoption or for a term of years to interfere in any manner with or to assume or exercise any control over such child or his earnings while such adoption or contract is in force."¹⁰⁸

Juvenile Home.—The board of control of state institutions was commissioned by an act of the Thirty-Eighth General Assembly to "establish a fit and proper Juvenile Home for the reception and care and education of dependent, neglected, delinquent or destitute children residents of Iowa." The act relating to the Juvenile Home was rewritten when the code of 1924 was adopted and the objects of the institution are now set forth as follows: "... for the care, custody, and education of children therein, who shall be wards of the state. Such education shall embrace instruction in the common school branches, in such other higher branches as may be practical, and in such manual training, as shall best fit and develop such children and render them self-sustaining. Instruction may also be given in elementary military tactics."¹⁰⁹

Thus it is evident that the Juvenile Home will take in as many children of the same ages as may be admitted to the Iowa Soldiers' Orphans' Home. Section 3646 referred to below states that if a child is delinquent and under ten years of age, he shall be committed to the Juvenile Home. In cases of children over ten years of age the court or judge may commit them to the Juvenile Home, the Iowa Soldiers' Orphans' Home, or one of the training schools as is decreed best to promote the welfare of such children.

Children may be committed to the Juvenile Home under the same procedure as is provided in chapter 180 relating to neglected, dependent, and delinquent children,¹¹⁰ or "children of the class which might be admitted to said home by the juvenile court may be admitted to said home on voluntary application signed by the

¹⁰⁶ Code of Iowa, 1931, sec. 3714.

¹⁰⁷ Code of Iowa, 1931, sec. 3716.

¹⁰⁸ Code of Iowa, 1931, sec. 3719.

¹⁰⁹ Code of Iowa, 1931, sec. 3698.

¹¹⁰ Code of Iowa, 1931, sec. 3699.

legal custodian of such children and approved in writing by the board of supervisors of the county in which such child has a legal residence."¹¹¹

In the chapter relating to the Juvenile Home, the law again gives the board of control wide authority to transfer children from the Juvenile Home to Iowa Soldiers' Orphans' Home and vice versa;¹¹² this shows that the purpose and objects of the two institutions are essentially the same. The only limitation on the power of the board of control to transfer children from one institution to another is found in the chapter relating to the Iowa Soldiers' Orphans' Home in which it states that "no person shall be so transferred who is not mentally normal, or who is incorrigible or has any vicious habits, or whose presence in the home would be inimical to the moral or physical welfare of normal children therein, and any such child in the home may be transferred to the proper state institution."¹¹³ Thus it would appear that the Iowa Soldiers' Orphans' Home is intended for the better class of unfortunate children.

It is a significant fact that the law relating to both the Juvenile Home and the Iowa Soldiers' Orphans' Home declares that all children admitted or committed shall be wards of the state. This insures the board of control complete custody and control of the inmates without any interference by parents, guardians, or relatives.

Children in the Juvenile Home may also be adopted or placed under contract in the same way as provided for in the Iowa Soldiers' Orphans' Home.¹¹⁴

County Orphans' Fund.—It is evident from a reading of the code that not all destitute orphans need be committed to institutional care. The board of supervisors is authorized to "levy a tax, not exceeding one-eighth mill on the dollar in any one year, on all taxable property in its county, at the same time other taxes are levied . . . to aid in and for the maintenance and education of destitute orphans." The fund thus raised is to be "expended in such sums and manner as the exigencies of each case may demand. If there are such children who are without guardian, or, having

¹¹¹ Code of Iowa, 1931, sec. 3700.

¹¹² Code of Iowa, 1931, sec. 3701.

¹¹³ Code of Iowa, 1931, sec. 3710.

¹¹⁴ Code of Iowa, 1931, sec. 3702.

one, are neglected, they shall be cared for through some suitable person to be appointed by the board."¹¹⁵

Provision is also made for financial aid to widowed mothers who are poor and have children under sixteen years of age, but who are otherwise proper guardians, to the extent of not to exceed \$2.50 per week for each such child. This is awarded by action of the court and on the theory that such children are better off at home with their mother than in one of the state institutions.¹¹⁶

Defective Children

The defective child always enlists our sympathies; especially is this true of the blind and the crippled. Society has taken upon itself the task of educating the defective, as far as they are capable of education, and of giving them scientific medical and hospital care to overcome their defects where possible.

There are four state institutions in Iowa devoted to the care and education of defective children, namely, the School for the Deaf, the School for the Blind, the Institution for Feeble-Minded, and the State Colony for Epileptics. In addition we may include the Hospital for Crippled Children established in connection with the University Hospital at Iowa City.

Schools for the Deaf and the Blind.—A school census is taken annually and the school officers upon whom this task is imposed are required to ascertain the number of children over seven and under sixteen years of age in their districts who do not attend school and so far as possible the cause of their failure to attend.¹¹⁷

The assessors are also required to list the names, ages, sex, and post office addresses of all deaf or blind persons within their assessment district. In this way fairly accurate records of these two classes of defective children are obtained. The county auditor is required to forward such lists to the secretary of the state board of education within thirty days.¹¹⁸

The education of the deaf and blind is compulsory the same as for normal children. The law requires that "children over seven and under nineteen years of age who are so deaf or blind as to be

¹¹⁵ Code of Iowa, 1931, sec. 7173 as amended in Chap. 121, sec. 79, Forty-Fifth General Assembly.

¹¹⁶ Code of Iowa, 1931, sec. 3641.

¹¹⁷ Code of Iowa, 1931, sec. 4425.

¹¹⁸ Code of Iowa, 1931, sec. 4426.

unable to obtain an education in the common schools shall be sent to the proper state school therefor, unless exempted, and any person having such a child under his control or custody shall see that such child attends such school during the scholastic year."¹¹⁹

In case the one having the care or custody of a deaf or blind child does not send it to school as required, the state board of education may compel its attendance through proceedings in the district or juvenile court. Failure to comply with the order of the court may be punished "as in ordinary contempt cases."¹²⁰

Deaf and blind children are excused from attending the state schools established for them if the superintendent of the school believes:

- "1. That the child is in such bodily or mental condition as to prevent or render futile attendance at the school
2. That the child is so diseased or possesses such habits as to render his presence a menace to the health or morals of other pupils
3. That the child is efficiently taught for the scholastic year in a private or other school devoted to such instruction, or by a private tutor, in the branches taught in public schools."¹²¹

The law relating to both the deaf and the blind declares that they are "entitled to an education at the expense of the state."¹²²

Indigent or homeless children who are blind or deaf may reside at their respective schools during vacation periods if so ordered by the state board of education.¹²³

The schools for the deaf and the blind are now under the jurisdiction of the state board of education and are rated as educational institutions.

Institutions for Mentally Incompetent Children.—Institutions for the feeble-minded and the epileptics are maintained by the state. These institutions are not exclusively for children, but children may be placed in either and are apt to grow to maturity and old age in the institutions.

Admission to either institution may be voluntary by parents or guardians, or persons may be committed to the institutions by court order.

¹¹⁹ Code of Iowa, 1931, sec. 4427.

¹²⁰ Code of Iowa, 1931, sec. 4429-4430.

¹²¹ Code of Iowa, 1931, sec. 4431.

¹²² Code of Iowa, 1931, sec. 4066, 4070.

¹²³ Code of Iowa, 1931, sec. 4075.



The code declares that the object of the institution for feeble-minded at Glenwood is the training, instruction, care, and support of feeble-minded residents of the state.¹²⁴

Feeble-minded are also cared for at the hospital for epileptics at Woodward. The code declares the object of this institution to be "for the purpose of securing humane, curative and scientific care and treatment of epileptics and for the training, instruction, care and support of feeble-minded residents of this state."¹²⁵

Both of these institutions are under the jurisdiction of the board of control of state institutions and the board is given wide authority over the inmates and is able to "transfer epileptics from any other institution under its control to said hospital and school, to transfer insane epileptics from said hospital for epileptics to other state institutions, and to retransfer such epileptics if deemed expedient."¹²⁶

Children's Hospital.—The Children's Hospital at Iowa City, established now as a regular part of the University Hospital, at first provided only for the treatment of indigent children under sixteen years of age. Subsequent legislation, however, has extended its scope to all indigent persons.

It is, however, made the duty of all physicians, public health nurses, members of boards of supervisors and township trustees, overseers of the poor, sheriffs, policemen, and public school teachers who know of indigent persons suffering from maladies or deformities that can probably be improved or cured by medical or surgical treatment or hospital care to file or cause to be filed a complaint in the juvenile court.¹²⁷ Upon proper hearing the court may enter an order directing that the patient be sent to the hospital of the College of Medicine of the State University for proper treatment and care.

Delinquent Children

The delinquent child has become one of the great social problems of the present generation, and the economic depression has greatly increased the number of juvenile delinquents.

The code treats neglected, dependent, and delinquent children in the same chapter, probably in recognition of the fact that neglect

¹²⁴ Code of Iowa, 1931, sec. 3402.

¹²⁵ Code of Iowa, 1931, sec. 3465.

¹²⁶ Code of Iowa, 1931, sec. 3472.

¹²⁷ Code of Iowa, 1931, sec. 4005-4006.

and dependency usually result in delinquency on the part of the child.

The legal definitions of dependent and delinquent children have already been given and need not be repeated except to say that only those under eighteen years of age, of sound mind, and not charged with any offense punishable under the statute by life imprisonment or death are included within the provisions of the chapter on neglected, dependent, and delinquent children.

Juvenile Courts.—The judges of the district courts are designated as judges of the juvenile court and they may designate the judges of the superior or municipal courts within their districts as such judges. The juvenile court is declared to be a court of record, and all juvenile cases are tried before the court without a jury.

In order to protect the youthful offender from public disgrace as far as possible the law provides that "the court may exclude from the courtroom any and all persons who, in his opinion, are not necessary for the hearing of the case."¹²⁸

When notice is served upon the custodian of any child charged with an offense as stated above and the person summoned fails to appear or bring the child without reasonable cause, he may be proceeded against as in cases of contempt of court.¹²⁹ After an investigation of the facts and circumstances by the court, it may, in its discretion, cause the child to be charged with either:

- "1. An indictable offense, in which case the court shall proceed to hold a preliminary examination, and shall exercise the powers of other magistrates; or
2. An offense not triable on indictment, in which case the court may order any peace officer to file forthwith an information against such child and proceed to try the case before a jury of twelve."

"When no regular jury is in attendance at the district, superior or municipal court, as the case may be, the judge shall cause to be issued by the clerk and served by any peace officer, a summons for such number of persons qualified to act as jurors as in his judgment are necessary to secure an impartial jury, allowing to the State and the defendant, each three peremptory challenges."¹³⁰

If, however, a child is unable to furnish bail pending the final disposition of the case, he may be committed to the care of a probation or peace officer, or other person, who must keep the child in

¹²⁸ Code of Iowa, 1931, sec. 3635.

¹²⁹ Code of Iowa, 1931, sec. 3627.

¹³⁰ Code of Iowa, 1931, sec. 3632.

some suitable place provided by the city or county, outside the enclosure of any jail or police station. Nor can any child be confined in the same yard or enclosure with adult convicts.¹³¹

When a child is convicted of an indictable offense in the district court, the court may enter judgment or, if the punishment is not death or life imprisonment, transfer the case to the juvenile court. If the case is transferred to the juvenile court, the juvenile court may proceed under either one of two commitments. In the case of any neglected, dependent, or delinquent child, the juvenile court may:

1. Continue the proceedings from time to time and commit the child to the care and custody of a probation officer or other discreet person.

2. Commit the child to some suitable family home or allow the child to remain in its own home.

3. Commit the child to any institution in the state incorporated and maintained for the purpose of caring for such children.

4. Cause the child to be placed in a public or state hospital for treatment or special care, or in a private hospital which will receive it for such purpose when such course seems necessary for the welfare of the child.¹³²

If the juvenile court does not proceed as above outlined or if it has and the results, in the opinion of the court, are not conducive to the welfare of the child, then the court must proceed as follows:

1. If the child is neglected or dependent and not delinquent, he shall be committed either to the Iowa Soldiers' Orphans' Home or to the state Juvenile Home.

2. If the child is delinquent and under ten years of age, he shall be committed to the state Juvenile Home.

3. If the child is over ten years of age and in the opinion of the court or judge is seriously delinquent or so disposed, he shall be committed to the training school for boys or for girls as the case may be. Married women, prostitutes, and girls who are pregnant shall not be committed to the training school for girls.

4. If the child is over ten years of age and in the opinion of the court or judge is not seriously delinquent nor so disposed, he shall be committed to the state Juvenile Home.¹³³

¹³¹ Code of Iowa, 1931, sec. 3633.

¹³² Code of Iowa, 1931, sec. 3636-3637.

¹³³ Code of Iowa, 1931, sec. 3646.

If either a dependent or delinquent child is committed by the court to the custody of some proper person or institution, such person or institution becomes the legal guardian of such child and may be made a party to proceedings for the legal adoption of the child, but the court must give its approval.¹³⁴

In committing children, the court is required "as far as practicable" to commit them to persons "holding the same religious belief as the parents of said child, or with some institution which is controlled by persons of like religious faith with the parents of said child."¹³⁵

Section 3647 of the chapter on neglected, dependent, and delinquent children declares that: "It is the intent of the preceding section to so classify commitments that the merely neglected and dependent child will not be associated with the delinquent and that delinquent children will be so segregated that the least delinquent will not suffer by association with those of greater delinquency." In order to carry out this intent and purpose, the board of control may at any time transfer an inmate of any of the three state institutions for the care of children to any other of the three. It may also transfer feeble-minded children from any one of the three to the institution for feeble-minded or to the hospital for epileptics and school for feeble-minded.¹³⁶

A special chapter entitled *Juvenile Delinquency* is found in the code in addition to the chapter on neglected, dependent, and delinquent children. The chief purpose of this chapter is to provide for the punishment of any who may contribute to the delinquency of any child under eighteen years of age.¹³⁷

Training Schools.—There is no statement in the code providing for separate care or education of boys and girls who may be sent to the Iowa Soldiers' Orphans' Home or to the Juvenile Home. We have already noted above that either dependent or delinquent children under eighteen years of age may be sent to any one of the state institutions established for the care, education, and training of such children. Separate training schools, however, are maintained for both boys and girls. Much discretion is left to the court to determine in a particular case to which institution a dependent

¹³⁴ Code of Iowa, 1931, sec. 3638.

¹³⁵ Code of Iowa, 1931, sec. 3640.

¹³⁶ Code of Iowa, 1931, sec. 3648.

¹³⁷ Code of Iowa, 1931, Chap. 181.

or delinquent child should be sent. The court is, however, directed not to send married women, prostitutes, and pregnant girls to the training school for girls even if they are under eighteen years of age. Neither can a child found guilty of murder in the district court be committed to the training schools. The avowed purpose of the training schools is to try through educational means to fit youthful offenders for a useful life in the state.

The board of control is directed to cause the boys and girls in the training schools "to be instructed in piety and morality, in such instruction on the Constitution of the United States and of this State as is required in the common schools, and in such branches of useful knowledge as are adapted to their age and capacity, including the effect of alcoholic liquors, stimulants, and narcotics on the human system, and in some regular course of labor, either mechanical, agricultural, or manufactural, as is best suited to their age, strength, disposition, capacity, reformation, and well-being."¹³⁸ No doubt it is much easier to make such a legislative declaration than to carry it out.

The procedure for the commitment of children to the training schools is the same as that already described for neglected, dependent, and delinquent children.

Those committed to the training schools "may with the written approval of the board of control be placed by the superintendent with any persons or in families of good standing and character where they will be properly cared for and educated."¹³⁹ The board of control is given the right, where it deems best, to return such children to the institution or replace, release, or finally discharge them.¹⁴⁰

After one year's service in the training school, the board of control may at any time discharge or parole any inmate as a reward for good conduct "and may, in exceptional cases, discharge or parole inmates without regard to the length of their service or conduct, when satisfied that the reasons therefore are urgent and sufficient. If paroled upon satisfactory evidence of reformation, the order may remain in effect or terminate under such rules as the board may prescribe."¹⁴¹

¹³⁸ Code of Iowa, 1931, sec. 3688.

¹³⁹ Code of Iowa, 1931, sec. 3691.

¹⁴⁰ Code of Iowa, 1931, sec. 3693.

¹⁴¹ Code of Iowa, 1931, sec. 3696.

Whenever a child is discharged as reformed and reaches the age of twenty-one years, this constitutes "a complete release from all penalties incurred by the conviction for the offense upon which the child was committed to the school."¹⁴²

The chapter on neglected, dependent, and delinquent children declares that the provisions of the chapter "shall not apply to any child who is accused of an offense which is punishable by life imprisonment or death";¹⁴³ while the chapter on the women's reformatory says that "any unmarried female over ten and under eighteen years of age convicted of an offense punishable by life imprisonment may be committed either to the Iowa training school for girls or to the women's reformatory."¹⁴⁴ There seems to be an apparent inconsistency in these two provisions, for the court is given the right to commit a girl child under chapter 180 "who is not accused of an offense punishable by life imprisonment or death" to any one of the institutions organized for the custody, care, and education of such children; while the girl under eighteen convicted of an offense punishable by life imprisonment may be sent to the training school for girls.

It has already been pointed out that the board of control possesses power to transfer girls from the reformatory to the training school and vice versa.¹⁴⁵

Juvenile delinquents come for the most part from the cities, and so counties of over 40,000 population are required to provide and maintain "a suitable detention home and school for dependent, neglected and delinquent children."¹⁴⁶

The whole law relative to juvenile delinquents has for its purpose the creation of an environment in which the child will be taught how to lead a good and useful life, and to avoid the stigma of having been a criminal.

Private Institutions for Neglected, Dependent, and Delinquent Children

The code contains a chapter on private institutions for neglected, dependent, and delinquent children, the purpose of which appears to be chiefly to supplement the provisions relating to the commit-

¹⁴² Code of Iowa, 1931, sec. 3697.

¹⁴³ Code of Iowa, 1931, Chap. 180.

¹⁴⁴ Code of Iowa, 1931, sec. 3727.

¹⁴⁵ Code of Iowa, 1931, sec. 3732.

¹⁴⁶ Code of Iowa, 1931, sec. 3653.

ment and care of children in the training schools, and especially those for girls.

These private agencies are declared to be "any institution incorporated under the laws of this state or maintained for the purpose of caring for, placing out for adoption, or otherwise improving the condition of unfortunate children . . . ,"¹⁴⁷ who may be under commitment from the juvenile court, or those voluntarily surrendered to the institution.

Any neglected, dependent, or delinquent minor child over eighteen years of age may be committed to one of these private institutions on the petition of "any reputable citizen of the county" to the juvenile court and if the court believes that such commitment will be for the welfare of the minor.¹⁴⁸

It would appear from a reading of the chapter governing such private institutions that their chief purpose is the custody and care of delinquent girls, for six of the twelve sections in this chapter refer specifically to females. It seems clear from section 3661-a89 that these institutions cannot receive persons over twenty-one years of age.

When females have been sentenced to jail, the court may in its discretion commit them to any one of these private institutions that will receive them, without expense to the state, but they cannot be kept beyond the maximum jail sentence imposed.¹⁴⁹ If a female has already been put in jail, the court may under like circumstances commit her to such an institution.¹⁵⁰ Children over seven years of age and under fourteen who are inmates of private institutions for the care of neglected, dependent, and delinquent children must be kept in school during the school year, either in a public or parochial school.¹⁵¹

Such private institutions are entitled to receive a monthly allowance of not to exceed sixteen dollars per month from the county of the legal residence of any minor under eighteen years of age committed to the institution by the juvenile court.¹⁵² The institution

¹⁴⁷ Code of Iowa, 1931, sec. 3661-a89, 3666.

¹⁴⁸ Code of Iowa, 1931, sec. 3666.

¹⁴⁹ Code of Iowa, 1931, sec. 3677.

¹⁵⁰ Code of Iowa, 1931, sec. 3678.

¹⁵¹ Code of Iowa, 1931, sec. 3667.

¹⁵² Code of Iowa, 1931, sec. 3676.

is also entitled to the labor of its inmates as a compensation for their keep.¹⁵³

These institutions are subject to the supervision and inspection of the board of control.¹⁵⁴ The juvenile court is directed not to commit any child to a private institution that did not file a satisfactory report for the previous year with the board of control.¹⁵⁵

Children's Boarding Homes.—Preceding the chapter on child placing agencies in the Code of Iowa is a chapter on children's boarding homes.

The word "person" or "agency" having been defined as including "individuals, institutions, partnerships, voluntary associations, and corporations other than institutions under the management of the state board of control or its officers or agents," the law declares that "Any person who receives for care and treatment or has in his custody at any one time more than two children under the age of 14 years unattended by parent or guardian, for the purpose of providing them with food, care and lodging, except children related to him by blood or marriage, and except children received by him with the intent of adopting them into his own family, shall be deemed to maintain a children's boarding home. This definition shall not include any person who, without compensation, is caring for children for a temporary period."¹⁵⁶

Such children's boarding homes must operate under license granted by the state board of control; such licenses may be revoked in the same manner as those of child placing agencies. The board of control, however, cannot grant a license to such a boarding home unless the same has been approved by the state department of health,¹⁵⁷ and then only to "a reputable and responsible person."

The license must state the number of children to be kept in the home and no greater number shall be kept at any one time than are authorized in the license.¹⁵⁸

The board of control is given the same rights and duties relative

¹⁵³ Code of Iowa, 1931, sec. 3681.

¹⁵⁴ Code of Iowa, 1931, sec. 3683.

¹⁵⁵ Code of Iowa, 1931, sec. 3671.

¹⁵⁶ Code of Iowa, 1931, sec. 3661-a43.

¹⁵⁷ Code of Iowa, 1931, sec. 3661-a45.

¹⁵⁸ Code of Iowa, 1931, sec. 3661-a50.

to records, reports, and inspections of such boarding homes for children as it has in connection with maternity hospitals.¹⁵⁹

PROTECTION OF THE HEALTH, MORALS,
AND SAFETY OF CHILDREN

The state has not considered its duty complete when it has provided that a child is entitled to sustenance. In addition, numerous provisions are found in the code which have for their object the protection of the health, morals, and safety of children.

The first of such measures to call attention to is the provision that "every physician shall immediately, upon the birth of an infant, instill into the eyes of such newly born infant a prophylactic solution approved by the state department of health."¹⁶⁰ Furthermore, every physician is directed to treat likewise the eyes of every infant if he detects "any inflammation, swelling, or redness in the eyes of any infant, or any unnatural discharge therefrom, within six months after its birth."¹⁶¹

Exemption from such treatment is provided for the children "of any person who is a member of a well recognized church or religious denomination, and whose religious convictions in accordance with the tenets or principles of his church or religious denomination are against medical treatment for disease."¹⁶² Religious liberty is no doubt one of our most cherished rights, but to send a child through life in blindness because of some religious belief of its parents is almost on a par with the practice of exposing infants as found in some oriental countries. From the viewpoint of the writer, the oriental practice is much more merciful than permitting a child to become blind when it could have been avoided.

Although the Federal government no longer makes appropriations under the Sheppard-Towner Act, the state of Iowa has continued to make an appropriation for the bureau of maternity and child hygiene. While this bureau is not exclusively for children its greatest activity is probably in their behalf. In 1931 the state appropriation was \$8,350. This sum was reduced to \$6,600 in 1933.

The law already mentioned providing for free medical, surgical, and hospital treatment of indigent children may be looked upon as a measure to protect the health of such persons.

¹⁵⁹ Code of Iowa, 1931, sec. 3661-a55.

¹⁶⁰ Code of Iowa, 1931, sec. 2313.

¹⁶¹ Code of Iowa, 1931, sec. 2314.

¹⁶² Code of Iowa, 1931, sec. 2315.

The requirement that physicians, parents, guardians, or school teachers must report "any person infected with a quarantinable disease or a placard disease" to the local board of health is intended for the protection of other children especially in preventing the spread of such diseases.¹⁶³

The laws against the use of cigarettes by minors, though "more honored in the breach than in the observance" are no doubt based on the assumption that the use of tobacco by immature persons is detrimental to their health.¹⁶⁴

Another act designed for the protection of the health of children prohibits the depositing of any sample packages of drugs or medicines upon any porch, lawn, vehicle, or in any other place where such drugs or medicines may be picked up by children.¹⁶⁵

The law tries to protect the child from immoral influences by placing heavy penalties upon those who may be guilty of corrupting him.¹⁶⁶ Thus we find the presentation of immoral plays, exhibitions, and entertainments "which would tend to the corruption of the morals of youth or others" is not only prohibited but severely punished.¹⁶⁷

Other provisions intended to protect the morals of the youth forbid the exhibition of pictures of prize fights; printing or circulation of obscene books, pictures, or literature; the use of obscene productions by phonograph, kinetograph, or any kindred device or machine; or the exhibition of deformed or abnormal persons.¹⁶⁸

The automobile has brought a new and destructive hazard to child life. The code has an enormous amount of legislation designed to protect all persons and some to protect children especially. Large signs warn the motorist that he is approaching a school zone and to reduce his speed.¹⁶⁹ A motorist is not allowed to pass a school bus taking on or discharging pupils.¹⁷⁰ A school bus driver is under many legal restrictions intended for the safety of his charges. No chauffeur's license can be issued to one under eighteen years of age, and no operator's license can be issued to one under

¹⁶³ Code of Iowa, 1931, sec. 2249.

¹⁶⁴ Code of Iowa, 1931, sec. 1553, 1555.

¹⁶⁵ Code of Iowa, 1931, sec. 13244.

¹⁶⁶ Code of Iowa, 1931, sec. 13184.

¹⁶⁷ Code of Iowa, 1931, sec. 13185.

¹⁶⁸ Code of Iowa, 1931, sec. 13186-13197.

¹⁶⁹ Code of Iowa, 1931, sec. 4997-d1.

¹⁷⁰ Code of Iowa, 1931, sec. 5079-c8.

fifteen years of age, except "upon a written request of a parent or guardian, a minor's license may be issued to any person between the ages of fourteen and fifteen years, to be valid only in going to and from school."¹⁷¹ No one under sixteen years of age can drive a school bus and no one under twenty-one years of age can drive a public passenger carrying vehicle.¹⁷²

The requirements that all public and private schools over one story high have at least one fire drill each month, and that all doors and exits of all school buildings remain unlocked during school hours are designed for safety of children in case of fire.¹⁷³ A further restriction is that no barbed wire fencing be placed around a school yard ground.¹⁷⁴

CRIMES AGAINST CHILDREN

Closely related to those provisions designed to protect the health, morals, and safety of children are those declaring certain actions in relation to children as criminal. These actions may be classified into three main groups: (1) desertion and abandonment of children, (2) child stealing and kidnaping, and (3) sex crimes.

Desertion or Abandonment of Children

Anyone who exposes a child under six years of age on the highway, in a field, or in any other place with the intent wholly to abandon it is subject upon conviction to imprisonment in the penitentiary for not over five years.¹⁷⁵ In like manner anyone who abandons "his or her legitimate or legally adopted child or children under the age of sixteen years, leaving such child or children in a destitute condition, or shall, without good cause, wilfully neglect or refuse to provide for such child or children they being in a destitute condition shall be deemed guilty of desertion and, upon conviction, shall be punished by imprisonment in the penitentiary for not more than one year, or by imprisonment in the county jail for not more than six months."¹⁷⁶ Persons so convicted, however, may be released by giving bond guaranteeing to "furnish his or

¹⁷¹ Code of Iowa, 1931, sec. 4960-d5.

¹⁷² Code of Iowa, 1931, sec. 4960-d10.

¹⁷³ Code of Iowa, 1931, sec. 1651.

¹⁷⁴ Code of Iowa, 1931, sec. 4378.

¹⁷⁵ Code of Iowa, 1931, sec. 13236.

¹⁷⁶ Code of Iowa, 1931, sec. 13230.

her child or children with a necessary and proper home, food, care and clothing."¹⁷⁷

Kidnaping or Child Stealing

The law makes a distinction between kidnaping and child stealing. The former is committed for the purpose of obtaining ransom money while the latter is not.

A penalty of five years imprisonment and a thousand dollar fine may be imposed as the punishment of any persons who "without lawful authority forcibly or secretly confine or imprison any other person within the state against his will" or forcibly take a person outside of the state.¹⁷⁸ This section applies to mature persons as well as to children. Child stealing involves the taking or enticing of a child under sixteen years of age "with intent to detain or conceal such child from its parents, guardians or other person or institution having the lawful custody thereof."¹⁷⁹ The penalty in this case may not exceed ten years imprisonment and a thousand dollar fine.

Kidnaping for ransom has become so serious that state legislatures are tending to put it in the same category with murder and make it punishable by death. Kidnaping for ransom as defined in the code applies to any person regardless of age. The penalty for kidnaping in Iowa up to 1933 has been life imprisonment,¹⁸⁰ but the General Assembly in 1933 following the lead of several other states made it possible to impose the death penalty for this crime.¹⁸¹

Sex Crimes Against Children

The protection of young girls has been a social problem of increasing importance. In the first part of this bulletin the writer has pointed out the special legislation designed to protect women in the matter of sex. Much of this legislation relates to those legally classified as children.

The maximum punishment for rape is life imprisonment, and the carnal knowledge of any female under sixteen years of age is defined as rape.¹⁸² The code, however, seems to consider enticing

¹⁷⁷ Code of Iowa, 1931, sec. 13232.

¹⁷⁸ Code of Iowa, 1931, sec. 12981.

¹⁷⁹ Code of Iowa, 1931, sec. 12982.

¹⁸⁰ Code of Iowa, 1931, sec. 12983.

¹⁸¹ Laws of Iowa, Forty-Fifth General Assembly (1933), Chap. 185.

¹⁸² Code of Iowa, 1931, sec. 12966.

a female child under eighteen years of age for the purpose of prostitution as a less serious offense than "enticing any female, before reputed virtuous, to a house of ill fame for . . . the purpose of prostitution . . ." In the first case the penalty may not exceed five years,¹⁸³ while in the second case the penalty may not exceed ten years imprisonment.¹⁸⁴ Both of these sections date back to the code of 1851 and seem out of harmony with section 12966 noted above.

The law on obscenity and indecency makes "any lewd, immoral, or lascivious act in the presence, or upon or with the body or any part or member thereof, of a child of the age of sixteen years, or under," punishable by imprisonment in the penitentiary for not more than three years or imprisonment in the county jail for not more than six months, or by a fine not exceeding five hundred dollars.¹⁸⁵

EDUCATION OF CHILDREN

The education of the youth of the state is its greatest juvenile undertaking. It is in no way the purpose of this bulletin to describe the educational system of this state; neither time nor space permits it. It is the writer's purpose only to point out that the state has not only given its children generous educational opportunities but has also made the acceptance of these opportunities an obligation on the part of all normal children.

Not only does the child in Iowa have a right to a common school education up to his sixteenth year but he is compelled by law to have it unless physically or mentally incapacitated from attending school.¹⁸⁶ Truant officers may be provided whose duty it is to apprehend and take into custody children of school age who are found loitering about during school hours.¹⁸⁷ In addition, school boards are authorized to establish truant schools for the instruction of children who are habitually truant; they may provide for their confinement, maintenance, and instruction under reasonable rules and regulations. The child who proves to be insubordinate or who escapes from the school during school hours may be adjudged disorderly and incorrigible and be committed to one of the training

¹⁸³ Code of Iowa, 1931, sec. 13182.

¹⁸⁴ Code of Iowa, 1931, sec. 13181.

¹⁸⁵ Code of Iowa, 1931, sec. 13184.

¹⁸⁶ Code of Iowa, 1931, sec. 4410.

¹⁸⁷ Code of Iowa, 1931, sec. 4420.

schools or another suitable institution of the state.¹⁸⁸ In the training schools the child finds that the state has provided that he "be instructed in piety and morality, in such branches of useful knowledge" as are adapted to his age and capacity, and "in some regular course of labor, either mechanical, agricultural or manufactural." He is also to be given instruction "in physiology and hygiene with special reference to the effect of alcoholic drinks, stimulants and narcotics upon the human system."¹⁸⁹

Dependents and delinquents in the Juvenile Home are to be given "instruction in the common school and in such other higher branches as may be practicable, and in such manual training as shall best fit and develop such children and render them self-sustaining."¹⁹⁰ Schools for children are also provided in county detention homes when established.¹⁹¹

In the Iowa Soldiers' Orphans' Home the children must be given "a common school education."¹⁹² Even the poor children at the county home or poor farm must "attend the district school for the district in which such home is situated."¹⁹³

There is no escape from a common school education in Iowa according to law; any person having control of any child of the age of seven to sixteen years, inclusive, in proper physical and mental condition to attend school, is commanded to cause such child to attend some public, private, or parochial school, where the common school branches of "reading, writing, spelling, arithmetic, grammar, geography, physiology, and United States history, history of Iowa and the principles of American government are taught." A failure to send a child to school as provided subjects the individual having control of the child to a penalty of from five to twenty dollars for each offense.¹⁹⁴

School boards are authorized to establish evening schools for the benefit of those over sixteen years of age who from any cause are unable to attend the public day schools.¹⁹⁵ Moreover, when ten or more such persons desire instruction, it is made the duty of the

¹⁸⁸ Code of Iowa, 1931, sec. 4422.

¹⁸⁹ Code of Iowa, 1931, sec. 3688.

¹⁹⁰ Code of Iowa, 1931, sec. 3698.

¹⁹¹ Code of Iowa, 1931, sec. 3653.

¹⁹² Code of Iowa, 1931, sec. 3706.

¹⁹³ Code of Iowa, 1931, sec. 5346.

¹⁹⁴ Code of Iowa, 1931, sec. 4252, 4410, 4415.

¹⁹⁵ Code of Iowa, 1931, sec. 4288.

school board to establish and maintain an evening school for such instruction for not less than three months of every school year and for not less than two hours at least two times each week during the term of such evening school.¹⁹⁶

School boards in city districts having a population of 12,000 or over are required to organize part-time schools if there are in the district fifteen or more children over fourteen and under sixteen years of age who are not in regular attendance in a full-time day school and who have not graduated from a four year approved high school. In city districts of less than 12,000 inhabitants the power to establish such part-time schools is optional with the board. These part-time schools are to be organized under standards set by the state board for vocational education. Their purpose is to give educational opportunities to those who may be working part of their time. When such schools are established, the children for whose benefit they are organized must attend.¹⁹⁷

Thus the state not only provides for but requires the education of all normal children, including both the dependent and the delinquent. Nor can the defective escape. Compulsory education of the deaf and the blind is required by law,¹⁹⁸ and the feeble-minded and the epileptic are given such education as they are capable of receiving.¹⁹⁹

The percentage of illiteracy in Iowa is very small, which testifies to the faithful administration of the school laws.

LEGAL RIGHTS OF THE CHILD

The child as a person in law is entitled to many of the same legal rights as the adult. In this paper, however, only those acts in which the child is specially mentioned will be considered.

In the first place there is a recognition of the child's right to be born alive and a heavy penalty rests upon anyone who would attempt to prevent it.²⁰⁰ When born, the date of his birth and his name are matters of public record.²⁰¹

It is a well-known fact that a minor does not enjoy the same degree of freedom in all matters that the adult does. The law declares

¹⁹⁶ Code of Iowa, 1931, sec. 4289.

¹⁹⁷ Code of Iowa, 1931, sec. 4291.

¹⁹⁸ Code of Iowa, 1931, sec. 4348.

¹⁹⁹ Code of Iowa, 1931, sec. 3402, 3465.

²⁰⁰ Code of Iowa, 1931, sec. 12973.

²⁰¹ Code of Iowa, 1931, sec. 2397.

that the parents are the natural guardians of their minor children and are equally entitled to their care and custody.²⁰² If a child has no natural guardian, the court may appoint one; in all cases where a minor owns property a guardian must be appointed because a minor is under restrictions in regard to property matters.²⁰³ A minor over fourteen years of age and of sound mind may select his own guardian.²⁰⁴ A guardian stands in the same relation to a minor as a parent would if living.

There is a rather strong popular belief that contracts made by minors are void. The law, however, declares that "a minor is bound not only by contracts for necessities, but also by his other contracts, unless he disaffirms them within a reasonable time after he obtains his majority, and restores to the other party all money or property received by him by virtue of the contract, and remaining within his control at any time after his attaining his majority."²⁰⁵ When a minor misrepresents his age or engages in business as an adult, he cannot disaffirm his contracts if the other party had good reason to believe him capable of contracting.²⁰⁶

In the case of a contract for the personal services of a minor, when made with him alone, and when payment for the service rendered is made to him in accordance with the terms of the contract, the parent or guardian cannot recover such child's wages a second time²⁰⁷ on the ground that a parent is entitled to the wages of his minor children. Nor can a parent claim the earnings of a child who has been placed out by adoption or for a term of years by the Juvenile Home or by the Iowa Soldiers' Orphans' Home.²⁰⁸

Minors may sue and be sued but "the action of a minor must be brought by his guardian, if he has one, if not, by his next friend, but the court may dismiss it if it is not for his benefit, or may substitute a guardian or another person as next friend."²⁰⁹ On the other hand, "the defense of a minor must be by his regular guardian, or by one appointed to defend for him where no regular guardian appears, or where the court directs a defense, by one ap-

202 Code of Iowa, 1931, sec. 12573.

203 Code of Iowa, 1931, sec. 12574.

204 Code of Iowa, 1931, sec. 12576.

205 Code of Iowa, 1931, sec. 10493.

206 Code of Iowa, 1931, sec. 10494.

207 Code of Iowa, 1931, sec. 10495.

208 Code of Iowa, 1931, sec. 3719.

209 Code of Iowa, 1931, sec. 10995.

pointed for that purpose. No judgment can be rendered against a minor until after a defense by a guardian.²¹⁰

The method of proceeding in the juvenile court and the whole law relating to the care of neglected, dependent, and delinquent children gives them a very favorable legal status as compared with adults. Women and children were not considered as legal persons at common law, and while most of the disabilities have been removed as far as women are concerned, for very good reasons minors still remain the subjects of special consideration in the law.

PROPERTY RIGHTS OF A CHILD

Legal rights and property rights are necessarily so closely related that the writer made no attempt to draw a sharp line of distinction between them. While all children may be said to have legal rights, property rights pertain to those having property or a claim to property.

The law of Iowa distinctly gives a child a right to inherit from his parents if they died intestate. In this case two-thirds of the estate goes to the children and one-third to their mother if living; otherwise all of the estate would go to the children. Even a posthumous child is entitled to his proportional share of his father's estate.²¹¹

Illegitimate children are entitled to inherit from their mother and she from them.²¹² They are also entitled to inherit from their father when the paternity has been proven during his lifetime.²¹³

The whole law of guardianship is chiefly concerned with conserving the property rights of minors.²¹⁴ Numerous special provisions are found for the protection of their property interests.²¹⁵ Thus a way is provided by law for the redemption of the property of minors when sold for taxes, as well as for guarding their other property rights.²¹⁶

The ordinary presumption that one offering personal property for sale is its rightful owner may be questioned in the case of minors. Cities and towns are authorized to prohibit pawnbrokers

²¹⁰ Code of Iowa, 1931, sec. 10997.

²¹¹ Code of Iowa, 1931, sec. 11858.

²¹² Code of Iowa, 1931, sec. 12030.

²¹³ Code of Iowa, 1931, sec. 12031.

²¹⁴ Code of Iowa, 1931, Chap. 539-542.

²¹⁵ Code of Iowa, 1931, sec. 4592.

²¹⁶ Code of Iowa, 1931, sec. 7277, 7295.

and junk or secondhand dealers from purchasing or receiving from minors any property without the written consent of their parents or guardians.²¹⁷

Minors may become members of building and loan associations with the same rights as adults to make withdrawals unless notice in writing to the contrary has been given by the parent or guardian of the minor.²¹⁸

Fraternal benefit societies are authorized to insure children on the application of some relative, and without membership in the local lodge.²¹⁹

Under the workmen's compensation act any child under sixteen years of age is entitled to compensation for the loss of a parent according to the schedule provided in the law.²²⁰ Payments, however, are made to a trustee appointed by the judge of the district court who must spend the money received "for the use and benefit of the person entitled" to it. The same is true where the minor receives compensation for injuries sustained.²²¹ A parent may also "maintain an action for the expenses and actual loss of service resulting from the injury or death of a minor child."²²²

CHILD IN INDUSTRY

Child labor has been the curse of industry. Greedy and needy parents have forced children of tender age into the work shop and the factory for the sake of helping out the family income or even for the purpose of relieving the parent of labor. Industry has often been a willing partner to the sacrifice of child life to increased dividends. In almost every state in the Union there has been a struggle at one time or another to define the status of the child in industry, to give the child the protection necessary to enable him to acquire at least a common school education, and to maintain the child's health, morals, and well-being.

Although Iowa is not rated as an industrial state, there are nevertheless many opportunities for the exploitation of the child unless it is protected by law. That the child labor laws of Iowa do

²¹⁷ Code of Iowa, 1931, sec. 5744.

²¹⁸ Code of Iowa, 1931, sec. 9344.

²¹⁹ Code of Iowa, 1931, sec. 8842-b1.

²²⁰ Code of Iowa, 1931, sec. 1393, 1402.

²²¹ Code of Iowa, 1931, sec. 1409.

²²² Code of Iowa, 1931, sec. 10986.

afford protection is shown by the fact that Iowa ranks high among states that are concerned with the interests of childhood.

There are a number of provisions in the code limiting occupations solely on the ground of age.

Section 1526 is the chief section defining the status of the child in industry. This section provides that "no person under fourteen years of age shall be employed with or without compensation in any mine, manufacturing establishment, factory, mill, shop, laundry, slaughter house or packing house, or in any store or mercantile establishment where more than eight persons are employed, or in any livery stable or garage, place of amusement, or in the distribution or transmission of merchandise or messages; but nothing in this section shall be construed as prohibiting any child from working in any of the above establishments or occupations when operated by his parents."

No person under sixteen years of age can be employed in any of the places or occupations enumerated above before seven o'clock in the morning or after six o'clock in the evening; if the employment exceeds five hours a day, a noon intermission of at least thirty minutes must be given. Such persons cannot be employed more than eight hours in any one day, exclusive of the noon intermission, nor more than forty-eight hours in any one week; if a part-time school is organized in the district, no one under sixteen years of age can be employed more than forty hours in any one week.²²³

No child under sixteen years of age can be employed or permitted to work in or in connection with any of the establishments or occupations mentioned above unless the person, firm, or corporation employing such child "procures and keeps on file, accessible to any officer charged with the enforcement of this chapter a work permit issued as hereinafter provided, and keeps two complete lists of the names and ages of all such children under sixteen years of age employed in or for such establishments or in such occupations, one on file in the office and one conspicuously posted near the principal entrance of the place or establishment in which such children are employed."

"On termination of the employment of a child whose permit is on file, such permit shall be returned by the employer within two days to the officer who issued it with a statement of the reasons for the termination of such employment.

²²³ Code of Iowa, 1931, sec. 1527.

"A work permit shall be issued for every position obtained by a child between the ages of fourteen and sixteen years. The permit in no case shall be issued to the child, parent, guardian, or custodian but to its prospective employer."²²⁴

These work permits are issued only by the superintendent of schools or some one authorized by him or by the local school board if there is no superintendent in the district. These work permits must contain considerable information showing that the child is of the proper age and is sufficiently sound in health and physically able to perform the work for which the permit is sought. It must also give the school record of the child which must show that he has completed "a course of study equivalent to six yearly grades in reading, writing, spelling, English language, geography, and arithmetic."²²⁵

Numerous facts to establish the identity of the child and to guard against evasions or abuses are also included.²²⁶ The code lists the following acts as unlawful:

- "1. Directing or permitting any boy under sixteen or girl under eighteen years of age to clean machinery while it is in motion.
2. Permitting any boy or girl under sixteen years of age to operate or assist in operating any freight or passenger elevator.
3. Permitting any boy or girl under sixteen years of age to operate or assist in operating dangerous machinery; but this provision shall not apply to pupils working under an instructor in manual training departments in public schools of the state or under an instructor in a school, shop, or industrial plant, in a course of vocational education approved by the state board for vocational education."²²⁷

It is also provided that "no person under sixteen years of age shall be employed at any work or occupation through which, by reason of its nature or the place of employment, the health of such person may be injured, or morals depraved, or at any work in which the handling or use of gun-powder, dynamite, or other like explosive is required, or in or about any mine during the school term, or in or about any hotel, cafe, restaurant, bowling alley, pool or billiard room, cigar store, barber shop, or in any occupation dangerous to life or limb."

²²⁴ Code of Iowa, 1931, sec. 1530.

²²⁵ Code of Iowa, 1931, sec. 1531 (2).

²²⁶ Code of Iowa, 1931, sec. 1532.

²²⁷ Code of Iowa, 1931, sec. 1529.

"No female under twenty-one years of age shall be employed in any capacity where the duties of such employment compel her to remain constantly standing."²²⁸

Another section prescribing working conditions for children applies only to cities of 10,000 or more inhabitants. This section provides that "no boy under eleven years of age nor girl under eighteen years of age shall be employed, permitted or suffered to work at any time in any city of ten thousand or more inhabitants within this state in or in connection with the street occupations of peddling, bootblacking, the distribution or sale of newspapers, magazines, periodicals or circulars, nor in any other occupations in any street or public place; except that in such cities the superintendent of schools or person authorized by him, upon sufficient showing made by a judge of the municipal or juvenile court, may, in exceptional cases, issue a permit to a boy under eleven years of age."²²⁹ The next section describes the conditions under which a work permit will be issued. It provides for the issuance of a badge to be worn by such boys which will authorize them "to engage in the above mentioned occupations at such time or times between four A.M. and seven-thirty P.M. each day, as the public schools of the city or district where such boy resides are not in session, but at no other time, except that during the summer school vacation, such boy may engage in such occupations until the hour of eighty-thirty P.M."²³⁰

Penalties are put upon parents or guardians of children who engage in street occupations in violation of this section, also upon persons who sell articles to such children to be resold.²³¹

Night work is forbidden for children by a section which provides that: "No person under eighteen years of age shall be employed in the transmission, distribution, or delivery of goods or messages between the hours of ten in the evening and five in the morning in any city of 10,000 or more inhabitants."²³²

Attention has already been called to the provisions for the establishment of part-time schools for minors between the ages of fourteen and sixteen years holding work certificates.

It is made the duty of the commissioner of the bureau of labor

²²⁸ Code of Iowa, 1931, sec. 1536.

²²⁹ Code of Iowa, 1931, sec. 1537.

²³⁰ Code of Iowa, 1931, sec. 1538.

²³¹ Code of Iowa, 1931, sec. 1540.

²³² Code of Iowa, 1931, sec. 1539.

statistics to enforce the provisions of the child labor laws.²³³ According to law, one of the factory inspectors must be a woman whose special duty it is to "inspect the sanitary and general conditions under which the women and children are at work in all factories, work shops, hotels, restaurants, stores, and any other places where women and children are employed."²³⁴

In the coal mining industry the mine foreman or pit boss must keep a record of the boys under sixteen years of age employed by him during school vacations. This record must show their names and ages, name and residence of parent or guardian, and the character of the employment in which they are engaged. This record must be open to inspection at all reasonable times.²³⁵

All these provisions have for their purpose the enforcement of the compulsory school law, as well as preserving to the child his right to grow and develop with normal children and be free from the toilsome tasks of industry up to the period of adolescence.

CHILD WELFARE SUPERVISION

The interest of the state of Iowa in promoting the well-being of children under its institutional care is shown in Chapter 181-A1 of the code on child welfare supervision. This chapter imposes upon the board of state institutions the duty to:

- "1. Arrange for such tests, measurements, examinations, and investigations as are necessary for the proper diagnosis, classification, treatment, and disposition of children committed to its guardianship or to institutions under its management or for whose care in such institutions application is made;
2. Promote the rehabilitation of disrupted families who have normal children who are wards of the state or the placement of such children in wholesome foster homes;
3. Advise with and aid county boards of supervisors in the performance of their duties;
4. Promote the enforcement of all laws for the delinquent children;
5. Coöperate to these ends with juvenile courts and all reputable child helping and child placing agencies of a public or private character;
6. Take the initiative in all matters involving the interests of such children where adequate provision therefor has not already been made; and
7. Inquire into the causes of dependency, delinquency, and defective-

²³³ Code of Iowa, 1931, sec. 1514.

²³⁴ Code of Iowa, 1931, sec. 1516.

²³⁵ Code of Iowa, 1931, sec. 1292 (5).

ness of children in this State, and to report to the legislature from time to time any changes in the statutes relating to child welfare that the board finds will be likely to promote economy in the maintenance of public institutions and more adequate protection of the rights of children.'²³⁶

The board of control is empowered to appoint a superintendent of child welfare who is given authority to carry out the purposes stated above and to aid in so doing the board of control may require individuals and institutions involved to give information and make reports to promote the objects as stated.

The board is also especially authorized "to call upon the Iowa Child Welfare Research Station, the Children's Hospital, the Psychopathic Hospital, the Extension Division of the State University, and other suitable state departments, institutions, and agencies for aid and advice in carrying out the purposes of this chapter."²³⁷

In addition to the foregoing provisions, the state board of education was authorized in 1917 to establish "as an integral part of the state university the Iowa Child Welfare Research Station having as its objects the investigation of the best scientific methods of conserving and developing the normal child, the dissemination of the information acquired by such investigation, and the training of students for work in such fields."²³⁸

CONCLUSION

In comparing the laws of Iowa pertaining to children with those of states noted for their progressive legislation in behalf of child welfare, we find that Iowa has been well abreast of these states in most matters relating to child welfare.

The provisions of the Iowa laws relative to guardianship, adoption, health and safety of children, child labor, and the provisions for the care of neglected, dependent, and delinquent children seem quite on a par with those of other states.

One state is prone to copy the good laws of another, and no doubt much of our child welfare legislation is of foreign origin, though the Iowa law giving medical, surgical, and hospital care to indigent children has been largely the product of our own soil.

²³⁶ Code of Iowa, 1931, sec. 3661-a1.

²³⁷ Code of Iowa, 1931, sec. 3661-a7.

²³⁸ Code of Iowa, 1931, sec. 3950.

Laws do not enforce themselves and, therefore, it is quite as important to have efficient administrative agencies for the enforcement of the laws relating to children as it is to have the laws themselves. Unenforced laws soon become dead letters on the statute books.

The state of New York ranks high with respect to legislation designed to provide social welfare supervision. This legislation appears to be sufficiently inclusive to cover the major needs of both adults and children.

New York is probably one of the few states that has created welfare districts with a commission to look after the social needs of those within the area. Another distinction in New York is its characteristic method of administration. Activities are grouped under an administrative department, responsible to the governor, for the execution of state-wide legislation. Where rule-making is necessary, a board exists for the purpose. New York, then, is unusual for its administrative methods and the legislation covering the whole gamut of social welfare.

Iowa does not have a special welfare agency such as that just mentioned to inquire into the needs of dependent and delinquent children. Reliance is had chiefly upon probation officers, truant officers, school teachers, and other interested persons to bring such children before the juvenile court. After commitment by the juvenile court, however, the board of control is given adequate authority to do, practically unhindered, whatever in its opinion will best promote the interests of its charges.

The child labor problem has not been a serious one in Iowa and so we could hardly expect the refinement of detail which is found in the legislation of some industrial states.

Yet the child labor laws in Iowa, if adequately enforced, seem to offer reasonable protection against the exploiting of children in industry.

Much of the more progressive legislation relating to children has been put upon the statute books within the past decade, and today Iowans need in no way be ashamed of the child welfare legislation of their state. No doubt much credit must be given to the Iowa Child Welfare Research Station in stimulating and promoting the interests of parent-teacher associations and similar organizations in the study of child life and the problems of adolescence.

